



Violence against women and the EU accession to the Istanbul Convention the Danish questionnaire

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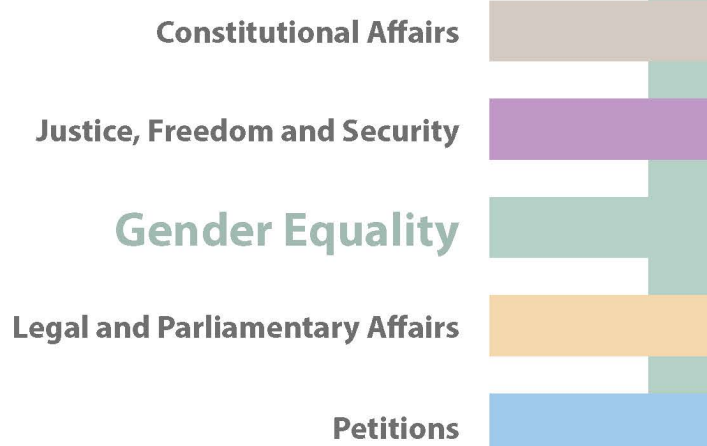
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DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT **C**
CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS



**Violence against women
and the EU accession to
the Istanbul Convention**

STUDY FOR THE FEMM COMMITTEE



DIRECTORATE GENERAL FOR INTERNAL POLICIES

**POLICY DEPARTMENT C: CITIZENS' RIGHTS AND
CONSTITUTIONAL AFFAIRS**

WOMEN'S RIGHTS & GENDER EQUALITY

Violence against women and the EU accession to the Istanbul Convention

STUDY

Abstract

This study was commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the FEMM Committee.

This study has three main objectives: 1) providing an overview of the progress made by EU Member States in the area of violence against women; 2) presenting the state of play of the ratification or implementation of the Istanbul Convention by Member States; and 3) analysing the EU accession to the Istanbul Convention and its consequences. The study concludes with policy recommendations on the role of the European Parliament in monitoring the process of implementation of the Istanbul Convention.

ABOUT THE PUBLICATION

This research paper was requested by the European Parliament's Committee on Women's Rights and Gender Equality and commissioned, overseen and published by the Policy Department for Citizens' Rights and Constitutional Affairs.

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LIST OF ABBREVIATIONS

CAHVIO	Committee for preventing and combating violence against women and domestic violence
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CJEU	Court of Justice of the European Union
CoE	Council of Europe
CRPD	Convention on the Rights of Persons with Disabilities
DV	Domestic violence
ECHR	Convention for the Protection of Human Rights and Fundamental Freedoms
ECtHR	European Court of Human Rights
EDF	European Disability Forum
EEA	European Economic Area
EIGE	European Institute on Gender Equality
EMPL	European Parliament Committee on Employment and Social Affairs
EU	European Union
FEMM	European Parliament Committee on Women's Rights and Gender Equality
FGM	Female Genital Mutilation
FRA	European Union Agency for Fundamental Rights
GREVIO	Group of Experts on Action against Violence against Women and Domestic Violence
ICD-10	International Classification of Diseases
Istanbul Convention	Council of Europe Convention on preventing and combatting violence against women and domestic violence
IPV	Intimate partner violence
JURI	European Parliament Committee on Legal Affairs
LIBE	European Parliament Committee on Civil Liberties, Justice and Home Affairs

MIPROF Interdepartmental Unit for protecting Women against Violence and for Combatting Trafficking in Human Beings (France)

NAP National Action Plan

NGO Non-Governmental Organisation

NSO National Statistical Office

PETI European Parliament Committee on Petitions

TFEU Treaty on the Functioning of the European Union

UK United Kingdom

UN United Nations

EXECUTIVE SUMMARY

An estimated one in three women has experienced physical and/or sexual violence since the age of 15, and about 50 women die every week from domestic violence in the EU¹. Approximately 75% of women 'in a professional capacity or in top management jobs have experienced sexual harassment in their lifetime'². The prevalence of violence against women is high across the EU and spares no environment, territory, generation, nationality or religion.

Violence against women constitutes a threat to women's health, as well as their social and economic well-being. Violence can obstruct the realisation of women's rights by precluding their participation and autonomy as full citizens in their communities³. It also incurs a cost to the economy and society. The annual total cost of gender-based violence against women to the EU is estimated to be over EUR 225 billion⁴. Despite national and EU preventative actions, the **prevalence of violence against women remains unacceptably high**.

Violence against women encompasses all acts of gender-based violence that result, or are likely to result, in physical, sexual, psychological or economic harm and suffering to women in public or private life⁵.

The Council of Europe Convention on preventing and combating violence against women and domestic violence (the **Istanbul Convention**) is the first regional legally binding instrument of its kind. The Istanbul Convention, adopted in 2011 and in force since 2014, aims to combat all forms of violence against women, to take measures to prevent such violence and protect victims, and to prosecute the perpetrators.

In view of the adoption of the Istanbul Convention and its ratification by most Member States, as well as its accession by the EU itself, **this study provides an overview of the progress made** within the EU in addressing violence against women. The report focuses chiefly on the Convention, including its scope and obligations, and comments on the legal and policy measures adopted by Member States to prevent and combat such violence. The study presents an overview of the process of ratification of the Convention in the 28 Member States, paying special attention to the legal and policy frameworks of those Member States which have ratified the Convention, in order to assess the positive changes and best practices stemming from ratification. The Convention establishes both an internal and external monitoring process, through the Committee of the Parties and Group of experts on action against violence against women and domestic violence (GREVIO), respectively. The results to-date of GREVIO's monitoring are analysed and presented here. Finally, in light of the 2017 signature of the Convention by the EU itself, this paper discusses the EU's approach to acceding to the Convention, as well as the implications that such accession may have on the role of the EU (particularly the European Parliament) in relation to violence against women issues.

The **methodology** for this study consisted of desk research carried out for all Member States. National experts provided detailed information for each Member State on the legal

¹ FRA, 2014, [EU wide survey on Violence against Women](#).

² *Ibid.*, p.12.

³ Manjoo, R., 2014, [Violence against women is a barrier to the effective exercise of all human rights](#).

⁴ EIGE, 2014, [Estimating the costs of gender-based violence in the European Union](#), p.16.

⁵ [Council of Europe Convention on preventing and combating violence against women and domestic violence](#) (Istanbul Convention), Article 3(a).

and policy framework on violence against women. **Two questionnaires** were used: one for the Member States which have already ratified the Convention, and the other for those yet to ratify the Convention. Some questions were common to both, while national experts for the Member States which have ratified the Convention were asked additional questions on the alignment of national law with the Convention. When the study began, the following 14 Member States had ratified the Convention: Belgium, Denmark, Spain, France, Italy, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Finland and Sweden. All of these Member States lodged their ratification instruments before **1 September 2017, the cut-off date for the research**. During the period of the study, three further Member States (Estonia, Germany and Cyprus) adopted the acts ratifying the Convention, depositing their ratification instruments with the Council of Europe in October 2017 (Estonia and Germany) and November 2017 (Cyprus). The Convention has not yet entered into force for those countries, however, and they were not included in this analysis of the implementation of the Convention.

The **progress made by all EU Member States** in addressing violence against women varies and not all forms of violence covered by the Istanbul Convention are criminalised by national legislation. Most Member States have adopted policy measures to tackle violence against women via strategies/national action plans (NAPs). Few, however, have published evaluation reports to help to identify achievements and/or obstacles.

One indicator of progress is the availability and access to reliable, effective and free victim **support services** for victims of violence against women. In general, Member States offer a wide range of support services for victims, including shelters and helplines. However, only four countries exceed the minimum number of shelters for adequate accommodation and support of women victim of violence (as recommended by the Convention). Some Member States have specialised support services in place for certain types of violence such as domestic violence. However, few have support services specialised to help women victims of this kind of violence and other prevalent forms of violence are not specifically catered for (e.g. sexual harassment) in most Member States.

Member States collect a wide variety of **data** on violence against women through surveys and administrative data. Important gaps exist, however, and many key information sources are insufficient or entirely lacking, such as: compilation of data at national level from all relevant sectors, especially from health institutions; recording of victim information as statistical data by judicial authorities; publication of detailed data on violence against women, using coherent definitions and categories across sectors; and databases allowing for combinations of denominators for different units of measurement.

The **Istanbul Convention** understands violence against women as a manifestation of historically unequal power relations between the two sexes, and acknowledges that domestic violence affects women disproportionately. It builds upon international initiatives, such as the United Nations Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) and the Beijing Declaration and Platform for Action. It is, however, a landmark treaty, as it constitutes the first international legally binding instrument to protect women against all forms of violence. The obligations it imposes on acceding Parties are structured around **four main pillars**: integrated policies, prevention of all forms of violence, protection of victims from further violence, and prosecution of perpetrators. Taken together, these pillars aim to take a comprehensive and holistic approach to the problem of violence against women.

Upon ratification, Parties must make the necessary adjustments to their **legal and policy frameworks** at national level in order to align them with the Convention's requirements. Member States which ratified the Convention often had to amend their criminal legislation to introduce new offences or stricter sanctions, while also adopting effective policy measures such as awareness raising campaigns, education initiatives programmes aimed at the treatment of perpetrators.

In terms of legislative measures, the Convention requires Parties to embody **the principle of equality** between men and women, in their national constitutions or other appropriate legislation. Although Member States which ratified the Convention already complied with this requirement, national legal and policy measures often fail to clearly articulate the role of strong equality legislation in combatting violence against women.

The Convention contains provisions on substantive civil and criminal law that must be implemented by State Parties. There is general compliance with the requirement to provide victims with adequate **civil remedies** against perpetrators, and the right to **claim compensation** for harm suffered. The legislation of Member States which ratified the Convention contains general provisions often enabling all 'victims of crime' or of 'offences' or 'persons who suffered damage' to seek remedies such as protection or restraining orders and to claim compensation before the courts.

With respect to **criminal law**, State Parties must criminalise a number of behaviours constituting violence against women: psychological violence, stalking, physical violence, sexual violence (including rape), forced marriage, female genital mutilation (FGM), forced abortion, forced sterilisation and sexual harassment. The Convention does not require criminalisation through gender-specific legal provisions, thus implementation can be gender-neutral. However, national provisions should reflect the Convention's definitions and understanding of these offences as closely as possible. National legal frameworks are not always fully aligned with the Convention, due to the absence of explicit criminalisation of certain offences (e.g. forced marriage) or to the existence of national definitions which do not fully capture the scope of the offences defined under the Convention.

To monitor implementation and effectiveness, the Convention establishes a **monitoring mechanism**. The mechanism is comprised of GREVIO, a group composed of independent experts working in the field of violence against women, and the Committee of the Parties, a 'political' body composed of representatives of all State Parties to the Convention. Parties are required to report to GREVIO the legal and policy measures adopted in their respective jurisdictions to give effect to the Convention. On the basis of this reporting, GREVIO adopts and publishes evaluation reports assessing legislative and other measures taken by the Parties. At the time of this study, two such evaluation reports had been published and these provide useful insight into GREVIO's interpretation of the Convention's requirements, as well as how it sees their application in practice.

The **EU signed the Istanbul Convention** on 13 June 2017 and is in the process of concluding the Convention. The accession of the EU to the Convention will reinforce EU commitment to combatting violence against women within the EU, and will strengthen the EU legal framework in this area.

The EU can only bind itself to the extent of its **competence**. The Istanbul Convention is a mixed agreement, in that it covers areas falling under the competence of both the EU and Member States. More precisely, the Istanbul Convention covers matters falling under EU supporting and shared competences. The areas of supporting competence are limited to

education, training and crime prevention. The most relevant provisions of the Convention fall under the area of EU shared competence. These chiefly concern the EU acquis in criminal law, victims' rights, cross-border cooperation, and immigration and asylum.

The EU signed the Convention through the adoption of two distinct decisions: Decision 2017/866 in relation to its competence on asylum and non-refoulement; and Decision 2017/865 on matters related to judicial cooperation in criminal matters. These Council decisions set the tone of the scope of the EU accession, limiting its accession to specific areas of EU competence.

The accession by the EU to the Istanbul Convention results in the Convention becoming legally binding on both the EU and its Member States, as the Convention will effectively **form part of EU law**. The CJEU will have jurisdiction in interpreting the Convention via preliminary rulings and decisions on infringement cases, and the Commission will be competent to bring proceedings against Member States for violation of the Istanbul Convention insofar as it has become part of EU law. Lastly, the Istanbul Convention could have some direct effect under EU law for those provisions with sufficiently precise and unconditional requirements.

The **EU will be required to adopt the necessary legislative and other measures** and to implement effective, comprehensive and coordinated policies to prevent and combat all forms of violence covered by the Convention. The scope of such EU measures is limited by its competences in the area, as well as the application of the principles of subsidiarity and proportionality.

Nevertheless, it could be argued that the EU has **some leeway** to adopt a number of measures, notably the harmonisation of legal definitions, and sanctions for some forms of violence against women that qualify as serious crime and have sufficient cross-border elements, such as FGM and forced marriage. Another area of potential EU legislative action is victims' rights, where the EU legal framework should sufficiently address the particular needs of victims of violence against women. Other EU actions could include the adoption of an EU Strategy on violence against women.

Another consequence of EU accession is that EU law will come under the **scrutiny** of the Council of Europe with respect to its compliance with the Convention. As a Party to the Convention, the EU framework and implementation of the Convention will be similarly reviewed by GREVIO and the Committee of the Parties.

The EU will need to designate or establish a **body** (or several bodies) responsible for the coordination, implementation, monitoring and evaluation of measures to prevent and combat all forms of violence against women. The Convention provides for parliamentary involvement in monitoring, whereby national parliaments must be invited to participate in the monitoring of implementation measures. A role in the monitoring of the EU implementation of the Convention should therefore be foreseen for the European Parliament.

The establishment of an EU framework for coordinating and monitoring the application of the Convention should be envisaged in line with the practice set up for the implementation of the Convention for the Rights of Persons with Disabilities (**CRPD**). The EU framework established for the promotion and monitoring of the CRPD in matters of EU competence sets a precedent and could provide useful guidance on the design of similar mechanisms to oversee and ensure the effective application of the Istanbul Convention.

Similarly, the adoption of a code of conduct to govern the **cooperation between the EU and its Member States** for matters related to the Istanbul Convention could be envisaged, similar to the CRPD Code of Conduct. Such a code would clarify the coordination arrangements, as well as the areas of EU action in implementing the Convention.

The next step in the accession process is the ratification of the Istanbul Convention by the EU, which will bring full effect to the Convention. In order to ratify, the Council of the EU must adopt decisions on the conclusions of the Convention. The decisions are subject to the consent of the European Parliament. The Commission proposal for a Council Decision on the conclusions of the Convention was approved by the European Parliament on 12 September 2017⁶. The proposal must now be adopted by the Council of the EU, before the Convention becomes binding.

After concluding, this study suggests three main **recommendations** on the role of the European Parliament in monitoring implementation of the Istanbul Convention. In particular, it recommends, first, that the European Parliament be fully engaged in the monitoring mechanism and ensure a follow-up on the implementation of the conclusions of GREVIO and recommendations of the Committee of the Parties.

Second, the European Parliament should play a proactive role in calling for the appropriate legislative changes required to ensure that the EU legal framework is fully aligned with the Istanbul Convention. This should include a thorough review of the existing EU acquis and the changes required to align with the Istanbul Convention. The European Parliament should also call for better data collection at EU level on violence against women.

Lastly, the European Parliament should establish a coordination mechanism within its own institution in order to gather all relevant expertise for comprehensive, coordinated and holistic implementation of the Convention, in line with its Article 7.

⁶ European Commission, [Proposal for a Council Decision on the conclusion, by the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence](#), COM(2016) 109 final, Date: 4.3.2016.

INTRODUCTION

Violence against women encompasses all acts of gender-based violence that result, or are likely to result, in physical, sexual, psychological or economic harm and suffering to women in public or private life⁷. It is a phenomenon that spares no environment, territory, generation, nationality or religion. This violence is manifest and constitutes the hallmark of an unequal society between women and men, in which relations of domination and power constitute social control over women and their sexuality. There can be no equality between women and men as long as violence against women remains a component of society, fueling women's insecurity, hindering their freedom and affecting their health⁸.

The results of the 2014 European Union Agency for Fundamental Rights (FRA) EU-wide survey showed that one in three women have experienced physical and/or sexual violence since the age of 15. About 50 women die every week from domestic violence⁹. The figures on the prevalence of sexual harassment are equally alarming, with one in five women experiencing unwelcome touching, hugging and kissing since the age of 15¹⁰. Professional women are particularly vulnerable to such conduct. The survey indicated that approximately 75% of women 'in a professional capacity or in top management jobs have experienced sexual harassment in their lifetime'¹¹. FRA also surveyed experiences of violence against girls before the age of 15, finding that 12% have experienced sexual abuse or sexual incident by an adult perpetrator, the vast majority of whom (97%) were male.

It is of utmost importance to address this widespread human rights violation. Violence against women constitutes a threat to women's health, as well as their social and economic well-being. It may also have far-reaching consequences in the exercise of the right to freedom and citizenship. According to the United Nations (UN) Special Rapporteur on violence against women and girls, violence can obstruct the realisation of women's citizenship rights by precluding their participation and autonomy as full citizens in their communities¹². It is therefore necessary to ensure that women and girls enjoy the same rights as their male peers. Studies have shown that victims of gender-based violence may face a range of consequences affecting all aspects of their daily lives. At psychological and social levels, women survivors of violence may lose their self-esteem and confidence, and as a result, may not be able to reach their full potential at school or at work, nor to play a full part in public and social life. Economically speaking, their opportunities may be limited or threatened. At a physical level, sexual violence may lead to serious illness or even death. Violence against women has significant negative impacts in a multitude of ways that can lead to some form of exclusion for the victims.

In addition to the detrimental impact on victims, violence against women incurs a cost to the economy and society. Direct costs include the provision of medical assistance, legal services and victim support programmes, while indirect costs relate to economic loss to the victim, potentially decreasing the likelihood of her economic participation, thereby having a

⁷ [Council of Europe Convention on preventing and combating violence against women and domestic violence](#) (Istanbul Convention), Article 3(a).

⁸ Opinion from the French National Advisory Commission on Human Rights (CNCDH), Opinion on violence against women and femicide (*Avis sur les violences contre les femmes et les féminicides*), May 2016: http://www.cncdh.fr/sites/default/files/160526_avis_sur_les_violences_aux_femmes_et_feminicide.pdf.

⁹ FRA, *EU wide survey on Violence against Women*, 2014.

¹⁰ *Ibid.*

¹¹ *Ibid.*, p. 12.

¹² Rashida Manjoo, 2014, [Violence against women is a barrier to the effective exercise of all human rights](#).

negative effect on the economy and society¹³. Violence against women thus has consequences beyond the lives of victims, for society at large. A study conducted by the European Institute for Gender Equality (EIGE) estimated the total annual cost of gender-based violence against women to the EU to be over EUR 225 billion¹⁴.

In recent years, the issue of violence against women has received increasing attention at both international and European level. The EU and its Member States have each undertaken efforts towards combatting this problem. The EU's policy in the area was initially based on soft law measures such as strategies, recommendations and awareness-raising campaigns. The work carried out by different agencies such as EIGE and FRA has raised awareness about the importance of fighting violence against women, while the European Commission's Daphne Programme provided significant funding to NGO projects aimed at preventing and combatting violence against children, young people and women, and protecting victims and groups at risk¹⁵. The European Parliament has also been active in drawing attention to the magnitude of the problem and the need to design measures to protect victims¹⁶.

As a consequence, the EU has gradually adopted legislation on victims' rights, human trafficking and sexual harassment in employment, strengthening rights and supports for victims of violence. Despite these actions, however, the prevalence of violence against women remains disturbingly high. While the EU has committed to fight discrimination between men and women at work, in social security and with regard to access to goods and services, until recently no legally binding instrument for the protection of women against violence has been developed (despite several calls from the European Parliament¹⁷). This is partly explained by the fact that EU competence in this area is limited chiefly to the rights of crime victims, serious crime with cross-border dimension and protection against discrimination.

The Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention) is the first regional legally binding instrument of its kind. The Istanbul Convention provides an important base for strengthening efforts to eliminate gender-based violence in Europe and for the protection and support of women who have experienced such abuse, as well as their children.

On ratifying this Convention, Member States are required to address all forms of violence against women and to take measures to prevent such violence, to protect its victims and prosecute the perpetrators. The Convention calls for integrated policies which offer a holistic response to the problem of violence against women¹⁸. These include the requirement for State Parties to dedicate appropriate financial and human resources to the prevention and combatting of violence against women, to conduct awareness raising campaigns and education so as to address the root causes of such violence as a form of gender equality, and to protect and support victims. In addition to the provisions on policies, the Convention also contains provisions on substantive law that require incorporation into the domestic law of State Parties. Upon ratification, Member States undertake to align their domestic law with the substantive and procedural law requirements of both civil and criminal law included in the Convention.

¹³ EIGE, 2014, [Cost of Violence against Women largely underestimated](#).

¹⁴ EIGE, 2014, [Estimating the costs of gender-based violence in the European Union](#), p. 16.

¹⁵ European Commission DG Justice, [Daphne III Funding Programme](#).

¹⁶ European Parliament Briefing, September 2017, [Violence against women in the EU – State of play](#); European Parliament, September 2017, [The Istanbul Convention: A tool to tackle violence against women and girls](#).

¹⁷ European Parliament, [Resolution of 26 November 2009 on the elimination of violence against women](#), (P7-TA (2009) 0098).

¹⁸ Article 7 of the Istanbul Convention.

The implementation of this important instrument at European level therefore requires serious legislative and policy adjustments at national level.

Aim of the study

In view of the adoption of the Istanbul Convention and its ratification by most Member States, this study aims to provide an overview of the progress made in the EU in addressing violence against women. The report focuses chiefly on the Convention, including its scope and obligations, and comments on the legal and policy measures adopted by Member States to prevent such violence through education, appropriate training and awareness raising, to support and protect victims, and to punish perpetrators. The Convention requires the design of integrated and coordinated policies in combatting violence against women, and the development of a holistic response to the issue. It is therefore important that legal provisions prohibiting violence or safeguarding victims' rights to legal aid or compensation are coupled with effective mechanisms enabling their implementation in practice. For this reason, the research paper examines both the legal regimes and policy frameworks in the Member States.

The Convention entered into force on 1 August 2014, following ratification by 10 State Parties. More than three years after its entry into force, the research paper aims to provide an overview of the process of ratification of the Convention in the 28 Member States. Special attention is paid to the legal and policy frameworks of Member States which have ratified the Convention, to assess possible positive changes and best practices stemming from ratification. The importance of the monitoring process carried out by GREVIO is emphasised, and the monitoring reports available so far is analysed for continuing challenges at national level.

Finally, in view of the 2017 signature of the Convention by the EU itself, this paper discusses the Union's approach to acceding to the Convention, as well as the implications that such accession may have on the role of the EU (particularly the European Parliament) in relation to violence against women issues.

Methodology

The Study is based on desk research carried out for all Member States. National experts provided detailed information on the legal and policy framework on violence against women in each Member State, on the basis of a questionnaire containing questions such as:

- Whether the Member State has criminal, civil or specialised legislation addressing violence against women.
- Whether a specific policy framework (e.g. action plans or national strategies) on violence against women or domestic violence has been adopted.
- The availability of general and specialist women's support services.
- Progress made on violence against women.
- The process for signature and ratification of the Istanbul Convention and steps taken to align national legislation with the Convention's requirements.
- National practices on data collection.
- Best practices in preventing violence against women.

Two sets of questionnaires were used: one for Member States which have already ratified the Convention, and the other for those yet to ratify the Convention. Some questions were common to both, while national experts for those Member States which have ratified the Convention were asked additional questions with respect to the alignment

of national law with the Convention. Section 2.3.2 Alignment of legislative frameworks contains detailed information on substantive criminal and civil law in these Member States, and seeks to assess whether or not it sufficiently reflects the Convention's requirements.

When the study began, the following **14 Member States** had ratified the Convention: Belgium, Denmark, Spain, France, Italy, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Finland and Sweden. All of these Member States lodged their ratification instruments before **1 September 2017, the cut-off date for the research**.

During the period of the study, three further Member States (Estonia, Germany and Cyprus) adopted acts ratifying the Convention, depositing respectively their ratification instruments with the Council of Europe in October 2017 (Estonia and Germany) and November 2017 (Cyprus). The Convention has not yet entered into force for those countries and they have not been included in the analysis for this study regarding the implementation of the Istanbul Convention. For the purposes of the study, therefore, only the 14 Member States mentioned above are considered to have ratified the Convention.

1. PROGRESS MADE IN ADDRESSING VIOLENCE AGAINST WOMEN ACROSS THE EU

KEY FINDINGS

- Member States have made considerable progress in addressing violence against women by adopting legal measures. Their approaches vary, however, and not all forms of violence covered by the Istanbul Convention are criminalised by national legislation.
- Most Member States have adopted policy measures to tackle violence against women via strategies/national action plans. Few, however, have evaluation reports to help to identify achievements and/or obstacles.
- Availability and access to reliable, effective and free victim support services is essential for victims of violence against women. In general, Member States offer a wide range of support services for victims, including shelters and helplines. However, only four countries exceed the minimum number of shelters for adequate accommodation and support of women victim of violence and few Member States have specialised support services for victims of this kind of violence.
- Member States collect a wide variety of data on violence against women through surveys and administrative data. However, important gaps exist, including: lack of compilation of data at national level from all relevant sectors, especially from health institutions; lack of recording of victim information as statistical data by judicial authorities; lack of publication of detailed data on violence against women, using coherent definitions and categories across sectors; lack of databases allowing for combinations of denominators for different units of measurement.

1.1. Progress in addressing violence against women by EU Member States

1.1.1. Progress through national legal and policy frameworks

The EIGE Gender Equality Index 2017 results show that EU Member States progress in gender equality is very slow. The EU overall score has only increased of four points in the last 10 years, with now 66.2 out of 100. Violence against women constitutes a satellite domain of the Gender Equality Index¹⁹. This section looks more specifically at all 28 Member States legislative and policy action on violence against women.

National legal frameworks

Eradicating violence against women is one of the priorities for the EU and its Member States. The latter have taken a range of actions, in particular legal measures to criminalise violence against women, and to protect and support women victims of such violence. Although the urgent need to address this phenomenon has been acknowledged, national legal frameworks of the 28 EU Member States still exhibit shortcomings, such as unequal

¹⁹ EIGE, 2017, [Gender Equality Index 2017 Measuring gender equality in the European Union 2005-2015: Main Findings](#).

protection of women against all forms of violence, or ineffective implementation at national level of international and regional instruments addressing violence against women²⁰. Previous research revealed that Member States have taken different approaches to the legal regulation of violence against women, ranging from a unitary and comprehensive approach (**Spain**), through piecemeal legislation with some recognition of the gender dimension of violence against women (**Germany**) or through gender-blind provisions, covering violence against women under general criminal provisions (e.g. **the Netherlands, UK**)²¹.

This Section provides an up-to-date summary on the progress of current national legal regulations addressing violence against women across the Member States. In comparing legislative measures, the assessment focuses on the following aspects:

- a) Have Member States adopted specialised laws on violence against women?
- b) Does criminal law recognise specific elements of violence against women (e.g. aggravating circumstances)?
- c) Does national legislation criminalise all forms of violence covered by the Istanbul Convention?

The research is based on questionnaire responses received from national experts. The information provided was subsequently analysed to determine the ways in which Member States criminalise violence against women and the forms of violence covered under the Istanbul Convention.

Criminal code vs. specialised legislation

All EU Member States criminalise various forms of violence through the **criminal offences** established in their criminal codes or other legislation. In most cases, the criminal offences apply to the context of violence against women, among others. For example, the offence of bodily harm is a form of physical violence against women but the offence as contained in Member States' criminal codes applies in all cases of bodily harm.

The context of violence against women is recognised through **aggravating circumstances** in a number of Member States. When the criminal offence is committed within specific circumstances, e.g. perpetrated by a family member, intimate partner or in some cases based on sex, increased penalties apply. This is the case in **Belgium, Bulgaria, Estonia, France** and **Italy**. **Sweden's** Criminal Code includes a specific criminal offence violence against women: the offence of 'gross violation of a woman's integrity'.

Some Member States have adopted **specialised legislation** to prevent and combat violence against women. In 2004, **Spain** adopted comprehensive legislation to tackle gender-based violence by means of broad protection and preventative measures, as well as the creation of specialised courts and public prosecutors that deal specifically with such legislation²². However, the Spanish parliament recognised that more reforms were needed

²⁰ European Parliament, 2013, [Combating Violence against Women: European Added Value Assessment](#) (+ Annexes I-II).

²¹ European Parliament, 2013, [Combating Violence against Women: European Added Value Assessment](#) (+ Annexes I-II).

²² Organic Law 1/2004, of December 28, on Measures of Integral Protection against Gender Violence (*Ley Orgánica 1/2004 de Medidas de Protección Integral contra la Violencia de Género*), 28 December 2004.

and, in July 2017, approved the National Pact on Violence against women, which includes further measures²³.

The most common specialised legislation on violence against women adopted at Member States level relates to **domestic violence**, which is considered as one of the most common form of violence against women²⁴. This is the case for Member States such as **Belgium, Bulgaria, Czech Republic, Greece, Cyprus, Latvia, Lithuania, Luxembourg, Malta, Austria, Poland, Portugal** and **Romania**. In some countries, the adoption of specialised legislation on domestic violence has proved challenging. **Slovakia**, for example, prepared a draft of an act on domestic violence in 2015, but it has not yet been adopted.

Some Member States have recently adopted legislative measures to tackle specific forms of violence against women, such as rape in **Ireland**²⁵, forced marriage in **the Netherlands**²⁶ and **Denmark**²⁷, and FGM in **Sweden**²⁸ and **the UK** (Scotland)²⁹.

Annex 2 presents a complete overview of the specialised legislation in Member States.

Forms of violence criminalised

This research looked at the following forms of violence, each of which is covered by the Istanbul Convention:

- Physical violence;
- Sexual violence (rape and sexual assault);
- Sexual harassment;
- Psychological violence (coercion and threat);
- Stalking;
- Economic violence;
- Forced marriage;
- Female genital mutilation (FGM);
- Forced abortion;
- Forced sterilisation.

Whilst some of these forms of violence have **specific offence provisions** in most Member States' Criminal Codes (i.e. rape, stalking), others fall under other more **general offences** (i.e. forced sterilisation and FGM fall under bodily harm offence in several Member States).

Physical and sexual violence are criminalised in all the Member States under their most frequent forms: murder, manslaughter, physical assault and bodily harm for physical violence; rape and sexual abuse for sexual violence.

During the past five years, EU Member States have made significant progress in adopting criminal anti-stalking legislation. Compared to the situation in 2010, when only 10 Member

²³ Congreso de los Diputados, 2017, *Subcomisión para un Pacto de Estado en materia de Violencia de Género. Informe de la Subcomisión así como votos particulares presentados*.

²⁴ CPS, WRC and UNICEF, 2014, *Empowered and safe. Economic Strengthening for Girls in Emergencies*.

²⁵ [Criminal Law \(Rape\) Act](#), 1981.

²⁶ Act against forced marriage (*Wet tegengaan huwelijksdwang*), Government Gazette Stb. 2015, 373.

²⁷ Law 1818/2015 Act on the Conclusion and Dissolution of Marriage (*Bekendtgørelse af lov om ægteskabs indgåelse og opløsning*).

²⁸ Act on (1982:316) Prohibiting the Genital Mutilation (Circumcision) of Women, SFS 1982:316, 27 May 1982.

²⁹ [Prohibition of Female Genital Mutilation \(Scotland\) Act 2005](#).

States had criminalised **stalking**, currently no less than 21 Member States have dedicated criminal provisions in place³⁰.

The Istanbul Convention recognises **economic violence** as a form of both violence against women and domestic violence. Economic violence, however, is less well recognised in the Member States. Economic violence encompasses acts leading to economic harm to women, such as property damage, restricting access to financial resources, or failure to comply with economic responsibilities³¹. Member States recognise this form of violence as part of domestic violence (e.g. **Czech Republic, Slovakia**) or effectively prosecute it under specific offences, such as the offence of family abandonment for lack of payment of the alimony (e.g. **Belgium** and **Romania**).

Not all EU Member States criminalise **forced marriage**. To date only 16 EU Member States have introduced a specific criminal offence provision for forced marriage³². In some Member States, forced marriage is criminalised within the context of the trafficking in human being offence provisions (**Estonia, Finland, Latvia, Lithuania, Slovakia**). Discussions on how to criminalise forced marriage are currently taking place in **Czech Republic**³³ and **Italy**³⁴. While the Czech Ministry of Justice has prepared a draft amendment of Criminal Code introducing a specific Section that would criminalise acts of preparation for this offence (the coercion to marriage is already criminalised by means of a general crime of extortion), the Supreme Court and the Supreme Public Prosecutor's Office consider the current provision sufficient³⁵. In **Finland**, forced marriage is only punishable under related offences of s trafficking in human beings, aggravated trafficking in human beings or coercion, which also apply to actions carried out outside Finland in connection with forced marriage. Victims of forced marriage in **Greece** could invoke offence on involuntary kidnapping, on elopement or on illegal violence. In **Hungary**, forced marriage is not criminalised. In line with the Civil Code, marriages conducted without the consent or free will of the parties would be considered void. Laws on forced marriage have not been identified in **Ireland, Poland** and **Romania**.

Female Genital Mutilation (FGM) is criminalised as a specific offence in some countries (for example in **Belgium, Cyprus, Italy, Portugal**), while in others it is prosecuted under a general offence of bodily harm or injury (for example in **Poland, Romania, Slovenia**).

The Member States' Criminal Codes do not always contain specific offences of **forced sterilisation and/or forced abortion** but, rather, criminalise these forms of violence under other offences. Forced sterilisation of adults is punishable under the provision on physical integrity/physical assault in **Germany**, and under the offence of bodily harm or severe bodily harm in **Croatia, Greece, Portugal, Romania, Slovenia** and **UK**.

³⁰ Suzan van der Aa, 2017, [New Trends in the Criminalization of Stalking in the EU Member States](#).

³¹ EIGE, 2017, [Glossary of definitions of rape, femicide and intimate partner violence](#), p.46.

³² The EU Member States that have introduced forced marriage as specific criminal offence are: BE, BG, CY, DE, DK, ES, FR, HR, LU, MT, NL, AT, PT, SE, SI, UK.

³³ The Supreme Court, 30 October 2017, *The Supreme Public Prosecutor's Office is opposed to the introduction of forced marriage as a privileged offence* (*NS i NSZ jsou proti zavedení nuceného sňatku jako privilegovaného trestného činu*).

³⁴ Draft Law introducing in the Criminal Code the offences of forced marriage, compelled trips to conclude such a marriage, and child marriage (*Introduzione nel codice penale dei reati di costrizione al matrimonio, induzione al viaggio finalizzato al matrimonio e costrizione al matrimonio di persona minorenni*). The Draft Law was presented on 13 June 2016 and is currently under discussion at the Senate. It would introduce three new articles in the Criminal Law (Article 605*bis*, *ter* and *quater*).

³⁵ The Supreme Court, the Supreme Public Prosecutor's Office are opposed to the introduction of forced marriage as a privileged offence (*NS i NSZ jsou proti zavedení nuceného sňatku jako privilegovaného trestného činu*), 30 October 2017, available at : <http://www.ceska-justice.cz/2017/10/ns-i-nsz-je-proti-zavedeni-nuceneho-snatku-jako-privilegovaneho-trestneho-cinu/>

The below table provides an overview of the forms of violence criminalised in the 28 EU Member States. The information was gathered by the national experts. Since the Convention does not specifically require the criminalisation of economic violence, rather it falls under the understanding of domestic violence, the lack of specific offence related to economic violence in a Member State did not affect the assessment of whether or not all forms were covered.

Table 1 Overview of the criminalisation of all forms of violence across EU Member States

MS	All forms of violence criminalised?	Notes
BE	Yes	Forced sterilisation falls under the offence of bodily harm and economic violence is covered by the offence of family abandonment for not paying alimony
BG	No	No specific offence of stalking and FGM
CZ	Yes	Forced marriage is criminalised through the general crime of extortion but preparation for this offence (luring another into a foreign state for the purpose of forced marriage) is not criminalised. Forced sterilisation and abortion fall under the offences of bodily harm and grievous bodily harm
DK	Yes	Stalking is not criminalised in itself. Punishment stems solely from breach of a previously issued restraining order
DE	Yes	Forced sterilisation of children is a criminal offence. However, forced sterilisation of adults is not specifically criminalised but is covered by the provision on crimes against physical integrity/physical assault
EE	Yes	Forced sterilisation falls under the offence of causing health damage resulting in loss or cessation of functioning of an organ
IE	No	Forced marriage, forced abortion and forced sterilisation are not covered under Irish legislation. Abortion is illegal in Ireland and thus forced abortion would be covered
EL	Yes	Forced marriage falls under the offences of involuntary kidnapping, elopement or illegal violence. Forced sterilisation falls under the provisions on bodily harm, while stalking is dealt with under the provisions on causing fear or anxiety to another person
ES	Yes	All forms of violence are criminalised in the Criminal Code
FR	Yes	Economic violence is covered by the Civil Code, which provides that there is also violence when a party, abusing the state of dependency of his contracting partner, obtains from him/her agreement to something to he/she would not have subscribed

MS	All forms of violence criminalised?	Notes
		in the absence of such coercion, and where an excessive advantage derives from this situation
HR	Yes	Forced sterilisation falls under the offence of bodily harm
IT	No	Although psychological violence is not a specific criminal offence, such conduct fall within the scope of stalking, threat, personal injury, domestic violence or family abuse. The Italian parliament is currently discussing a draft law criminalising forced marriage
CY	Yes	Sexual harassment is criminalised under the Equal Employment Act and stalking falls under the offence of threat which covers acts of threatening someone with the purpose of causing fear or harassing. A legislative proposal was approved by the cabinet in January 2017 to criminalise harassment to women and stalking specifically (Law on protection from harassment and stalking)
LV	No	Stalking and sexual harassment are not criminalised. Forced marriage is not criminalised, albeit it could fall under kidnapping. FGM is not specifically criminalised, but falls under the offence of intentional bodily injury
LT	No	No specific offences of FGM, forced abortion, forced sterilisation or economic violence Forced marriage falls under the offence of trafficking in human beings. Stalking falls under the offence of threatening to murder or cause a severe health impairment to a person, or terrorising a person
LU	Yes	Economic violence is limited to the offence of family abandonment. FGM is covered under the general terminology of mutilation with aggravated circumstances
HU	No	No specific offences of forced marriage, forced abortion or forced sterilisation
MT	Yes	No specific offence related to economic violence. However, under the draft Domestic Violence and Gender-based Violence Act designed to implement the Istanbul Convention economic harm would be covered under gender-based violence
NL	No	The Criminal Code does not contain a separate offence for sexual harassment. However, it is covered by sexual intimidation in employment. No specific offence for forced marriage. Forced marriage is criminalised under coercion. However, the acts of luring the person abroad is not covered No specific offence of FGM. It can fall within the offence of

MS	All forms of violence criminalised?	Notes
		serious mistreatment
AT	Yes	No specific offence related to economic violence
PL	No	Not all forms of violence covered by the Istanbul Convention are criminalised. Poland has no criminal offence on forced marriage, FGM, forced abortion or forced sterilisation. Although the law does not address forced abortion, existing provisions could be interpreted as outlawing forced abortion, as abortion is broadly prohibited. However, this is unlikely to satisfy the ethos of the Istanbul Convention. Sexual harassment is not defined in criminal law but is addressed in employment law
PT	Yes	Forced sterilisation falls under the offence of severe bodily harm
RO	No	FGM and forced sterilisation both fall under the crime of bodily harm. Forced marriage is not listed as a crime in Romania
SI	Yes	Forced sterilisation falls under the offence of serious bodily harm
SK	Yes	Reference to forced marriage was added as a special form of trafficking in human beings. No specific law outlawing FGM, however the Criminal Code outlaws any kind of mutilation, which includes FGM
FI	No	Forced marriage is not specifically criminalised. Forced marriage can fall under the offence of coercion. However, forced marriage carried out by luring a person abroad is not specifically punishable
SE	Yes	The Swedish Criminal Code includes a violence against women: offence of gross violation of a woman's integrity
UK	Yes	All forms of violence covered by the Istanbul Convention are punishable in the three jurisdictions of the UK, either as specific offences or as conduct which would trigger a sanction by virtue of other, more general offences (forced sterilisation falls under the offence bodily harm). While psychological violence is sanctionable under England/Wales and Scottish law, it is not an offence in Northern Ireland. However, proposed legislation on coercive control to help to protect victims of domestic and sexual violence is being discussed by the Justice Department of Northern Ireland.

The above table shows that the majority of the Member States criminalise all the forms of violence against women covered by this Study. However, it is clear that most of them

lack specific offences for some forms of violence. This concerns mostly FGM, forced marriage and forced sterilisation.

Policy frameworks

Legislation on violence against women is most likely to be implemented effectively when accompanied by a comprehensive policy framework which includes a strategy or national action plan (NAP). Most EU Member States have adopted strategic documents that define their policy on combatting and preventing violence against women, although their approaches vary. While **Belgium**³⁶, **Germany**³⁷ and **France**³⁸ have NAPs in place to combat most forms of violence against women, policy documents in other countries specifically address one form of violence, such as domestic violence in **Poland**³⁹ and **Romania**⁴⁰. The research revealed a positive trend in terms of broadening the scope of these policy documents. For example, **Portugal**⁴¹, for the first time, expanded the implementation scope of its fifth NAP to cover other forms of violence against women, in addition to domestic violence. The focus of the second **Czech Republic** NAP also has a broader scope and covers other forms of violence against women, as defined by the Istanbul Convention. In addition to its NAP, in 2016 **Denmark** adopted national initiatives focusing on specific forms of violence such as rape, stalking and honour-related conflicts.

Despite previously adopting a strategy/NAP focusing on violence against women, several Member States have failed to either update existing plans or adopt follow-ups. Following the ratification of the Istanbul Convention in 2014, **Austria** adopted the National Action Plan for the Protection of Women Against Violence 2014-2016, implementing the requirements of the Istanbul Convention. No follow-up NAP has been adopted, perhaps due to changes at the head of the Minister of Health and Women's Affairs in early 2017 and the call for early elections in October 2017. In December 2016 in **Spain**, the Ministry of Health, Social Services and Equality announced the creation of the Second Strategy for the period 2017-2020 but this has yet to be approved⁴². **Malta** has no comprehensive policy addressing violence against women or domestic violence. In October 2016, local press reported that a national strategy for domestic violence was likely to be published by the end of 2016. However, such a strategy has yet to be adopted.

In 2015, the **Hungarian** Parliament annulled its strategy and called on the government to develop a new one⁴³. To date, no such strategy has been adopted. At present, discussions are underway on the development of a new strategy in **Romania**.

Following the increase of gender violence cases and numerous public protests and demonstrations, **Spanish** political parties reached a 'historic' EUR 1bn five-year action plan

³⁶ Belgium, [National Action Plan to combat all forms of gender-based violence 2015-2019](#).

³⁷ Germany, Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, 2007, [Action Plan II of the Federal Government for the combat against violence against women](#).

³⁸ France, NAP 2017-2019.

³⁹ Poland, National Action Plan for Equal Treatment 2013-2016.

⁴⁰ Romania, Decision 1156/2012 on Approving the national strategy to prevent and fighting domestic violence for the period 2013 -2017 and the Operational Plan to implement the National Strategy for preventing and fighting domestic violence for the period 2013-2017 (*Hotărâre Nr. 1156 din 27 noiembrie 2012 privind aprobarea Strategiei naționale pentru prevenirea și combaterea fenomenului violenței în familie pentru perioada 2013 – 2017 și a Planului operațional pentru implementarea Strategiei naționale pentru prevenirea și combaterea fenomenului violenței în familie pentru perioada 2013 – 2017*).

⁴¹ Portugal, Resolution of the Council of Ministers 102/2013 V National Plan to Prevent and Combat Domestic and Gender-based Violence 2014-2017 (*Resolução do Conselho de Ministros 102/2013, de 31 de Dezembro, V Plano Nacional de Prevenção e Combate à Violência Doméstica e de Género, 2014-2017*), 31 December 2013.

⁴² <https://www.msssi.gob.es/gabinete/notasPrensa.do?id=4069>

to tackle gender-based violence. The bill was approved in July 2017 by the Spanish Congress, which will now set up a committee to monitor implementation of the programme⁴⁴.

1.1.2. Practical implementation

A good indication of progress in the area of violence against women is the extent to which Member States implemented their NAPs and strategies, whether they effectively achieved their goals, and if they effectively participated in combatting violence against women. Evaluations of NAPs and monitoring mechanisms are key in understanding the impact and effectiveness of policies and the degree of progress achieved. International human rights treaty bodies, such as the UN CEDAW call on countries to establish national mechanisms for monitoring and evaluating the implementation of NAPs to eliminate violence against women, including through the use of national indicators, and to provide adequate financial support for the implementation of such NAPs⁴⁵.

Progress towards the practical implementation of policy measures addressing violence against women can be identified through evaluation/implementation reports. The national research reviewed those reports, where available. Detailed information was available from such reports in **Estonia**⁴⁶, **Spain**⁴⁷ and **Romania**⁴⁸.

Table 2: Overview of conclusions from the evaluation reports

MS	Examples of conclusions from evaluation reports
EE	In 2015, Estonia published the evaluation report of its Strategy for the Prevention of Violence 2015-2020. Numeric indicators demonstrate that Estonia is moving towards its 2018 targets: deaths resulting from domestic violence have decreased and numbers of restraining orders issued have increased ⁴⁹ .
ES	In 2015, Spain published the first implementation report of the National Strategy for the eradication of violence against women 2013-2016, concluding that 80% of the strategy had been implemented. However, no final implementation report is yet available.

⁴³ Hungary, [Parliament Resolution no. 30/2015 on the definition of national strategic objectives to enhance the efficiency of responses to intimate partner violence cases](#) (30/2015. (VII. 7.) OGY határozat a kapcsolati erőszak elleni hatékony fellépést elősegítő nemzeti stratégiai célok meghatározásáról).

⁴⁴ [Spanish national pact against gender-based violence: 'very positive but insufficient'](#), 14 September 2017.

⁴⁵ United Nations General Assembly Resolution 63/155, para.16(a), (f) and (g); United Nations General Assembly Resolution 65/187, para.16.

⁴⁶ Estonia, Strategy for the Prevention of Violence 2015-2020. Short Summary on the Implementation in 2015 (*Vägivalla ennetamise strateegia 2015–2020. 2015. aasta täitmise lühikokkuvõte*), available at: https://www.valitsus.ee/sites/default/files/content-editors/arengukavad/ves_2015._aasta_luhikokkuvote_kinnitatud.pdf, pp. 2-3.

⁴⁷ Spain, Gobierno de España, 2015, [I Informe de Ejecución de la Estrategia Nacional Para la Erradicación de la Violencia contra la Mujer 2013-2016](#).

⁴⁸ Romania, National Agency for Equality Between Men and Women, 2016, *Monitoring report on the implementation of the Operational plan for implementing the National Strategy for preventing and fighting family violence for 2013-2017* (*Raport de monitorizare a stadiului implementării Planului operational pentru implementarea Strategiei naționale pentru prevenirea și combaterea fenomenului violenței în familie pentru perioada 2013-2017*).

⁴⁹ Estonia, Strategy for the Prevention of Violence for the years of 2015-2020. Short Summary on the Implementation in 2015 (*Vägivalla ennetamise strateegia 2015–2020. 2015. aasta täitmise lühikokkuvõte*) available at: https://www.valitsus.ee/sites/default/files/content-editors/arengukavad/ves_2015._aasta_luhikokkuvote_kinnitatud.pdf, pp. 2-3.

MS	Examples of conclusions from evaluation reports
RO	In 2016, the National Agency for Equality Between Men and Women (ANES) issued a report on the implementation of the strategy against domestic violence 2013-2017 ⁵⁰ . The report highlights several public campaigns, including conferences, professional development courses and courses for children, developed over the years to sensitise the general public to issues of domestic violence. One of the main achievements was the ratification of the Istanbul Convention ⁵¹ . Other notable developments include setting up an inter-ministerial Committee for preventing domestic violence, having regular meetings on the issue of domestic violence between various stakeholders, and setting up a phone hotline managed by ANES, available 24/7 for victims of domestic violence.

In **Germany**, the Federal Ministry for Family, Seniority, Women and Youth commissioned a study on the Health, Well-Being and Personal Safety of Women in Germany. The issues highlighted by the study, together with other research and information from everyday practice, were then considered when drafting Action Plan II of the Federal Government to combat violence against women. All of the measures announced in 1999 were implemented by September 2004⁵².

Some Member States have not reported on their evaluation of the NAP. In **Belgium**, for example, although no published evaluation has been identified on the National Action Plan 2010-2014, the NAP was revised in 2012 and its measures updated. In 2012, 42 of its 122 measures were completed, nine measures had not been launched and the others were in progress⁵³. An evaluation of the NAP was expected from the **Austrian** Federal Government in 2017 but has not yet materialised.

The Empowerment Action Plan 2015-2017 in **the Netherlands** has been evaluated positively, with (social media) campaigns, training, and informative conferences organised. The aim of the Action Plan is not only to inform society on these issues, but also to decrease the number of victims of forced marriages and honour-related violence. Some of the obstacles identified are the lack of available contacts and 'champions' that can dedicate themselves to rolling out the Action Plan successfully, since most of the relevant organisations rely on volunteers. The final evaluation of the Action Plan will take place in 2018.

⁵⁰ Romania, National Agency for Equality Between Men and Women, 2016, *Monitoring report on the implementation of the Operational plan for implementing the National Strategy for preventing and fighting family violence for 2013-2017* (Raport de monitorizare a stadiului implementării Planului operational pentru implementarea Strategiei naționale pentru prevenirea și combaterea fenomenului violenței în familie pentru perioada 2013-2017).

⁵¹ *ibid*, p. 19.

⁵² Germany, Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, Health, Well-Being and Personal Safety of Women in Germany. [A Representative Study of Violence against Women in Germany](#).

⁵³ Belgium, [National Action Plan 2010-2014 on the fight against intimate partner violence and other intra-family violence – update 2012-2013](#) (Mise à jour du plan d'action national de lutte contre la violence entre partenaires et d'autres formes de violences intrafamiliales 2010-2014, 10 juin 2013/ Update van het nationaal actieplan ter bestrijding van partnergeweld en andere vormen van intrafamiliaal geweld 2010-2014, 10 juni 2013).

1.2. Overview of specialist services and data availability

1.2.1. Availability of specialist services across the EU

Support services for victims of crime are an essential component of victims' rights. The response by state authorities and/or private organisations when a person reports an incident of victimisation is of crucial importance and it is thus essential that victims are aware of their rights and know where and how to find advice and support and access their rights⁵⁴. Availability of, and access to, reliable, effective and free victim support services is a key factor⁵⁵.

The Istanbul Convention aims to ensure that victims receive appropriate support and protection from further violence from trained professionals, as well as avoiding second victimisation. Chapter IV of the Convention therefore sets out requirements for State Parties to set up general and specialised support services addressing the specific needs of victims of violence against women. The guiding principles state that such services should:

- be based on a gendered understanding of violence against women;
- be focused on the human rights and safety of the victim;
- be based on an integrated approach;
- avoid secondary victimisation;
- aim to empower women victims and safeguard their economic independence;
- aim to have different services located at the same premises, where appropriate;
- address the specific needs of vulnerable persons, including child victims.

State Parties must ensure the right to legal assistance and free legal aid (Article 57), as well as protection measures (Article 56).

The EU has undertaken many initiatives to improve the situation of victims of crime and to harmonise minimum standards on the rights, supports and protection of victims of crime through the Victims' Rights Directive⁵⁶.

The Directive's objective is 'to ensure that victims of crime receive appropriate information, support and protection and are able to participate in criminal proceedings'⁵⁷. It brought a variety of improvements to victims' rights and protection: the concept of victim was broadened to family members in case of the death of the direct victim; it covers victim support services and participation in criminal proceedings; and it obliges Member States to provide training for personnel involved with victims. The Directive covers all type of victims of crime, while recognising the particular needs of victims of gender-based violence, who should receive specialised protection measures and supports, irrespective of whether or not they are making a formal complaint⁵⁸.

⁵⁴ European Union Agency for Fundamental Rights (FRA), 2012, *Victim support services in the EU: an overview and assessment of victims' rights in practice*.

⁵⁵ Ibid.

⁵⁶ [Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.](#)

⁵⁷ [Article 1 of the Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.](#)

⁵⁸ Preamble Recital 18, Articles 9, 22 and 23 of [Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA](#), OJ L 315, 14.11.2012.

Member States (with the exception of Denmark, which opted out of the Directive) are likely to have already established some of the safeguards and requirements under the Convention, as they are bound by a number of similar obligations under the Victims' Rights Directive⁵⁹.

This section presents an overview of three main types of services across the EU that are crucial to the support of victims of violence against women: victim support services, health care services, and legal aid.

The evaluation reports published by GREVIO at the time of the report, assessing implementation of the Convention in **Austria** and **Monaco** provide useful insights into GREVIO's understanding of the requirement to establish support services under the Istanbul Convention. Two points ought to be specifically highlighted. Firstly, specialised support services should be available to victims of **all forms of violence** covered by the Convention. In its report on Austria, GREVIO raised concerns over the fact that there is "a stark contrast in the number, scale and regional spread of services between domestic violence victim services and services for victims of other forms of violence"⁶⁰. While domestic violence protection centres exist in all provinces, specialised counselling services for victims of sexual violence and rape were less common. Moreover, it appears that no **dedicated support services exist for sexual harassment**⁶¹. Against this background and to counter 'the disparity in terms of levels of service provision for the different forms of violence covered by the Istanbul Convention' GREVIO urged national authorities to ensure that all women victims have access to specialised support services which meet their needs, irrespective of the form of violence they have experienced⁶². Similar considerations may be relevant for several Member States, which may have comprehensive structures to protect and support victims of domestic violence, while at the same time neglecting to provide equal level of support to women victims of other forms of violent conduct, possibly due to lack of funding.

Secondly, GREVIO considered that access to specialised support services must be ensured **for all women in need**. State Parties should thus remove any hurdle preventing women from seeking support. For instance, the existence of a rule in **Austria** refusing access to shelters to boys above the age of 14 arriving with their mothers could make women reluctant to approach shelters to ask for help⁶³. Access of women victims facing particular medical needs, substance abuse problems or mental health issues is also not guaranteed. These groups of women, often particularly vulnerable in abusive relationships, are normally not admitted to shelters because they have needs going beyond the expertise and capacity of the shelters' staff⁶⁴. Finally, women seeking asylum also encounter difficulties in access to shelters due to the funding regime for shelters in Austria and their legal status. Funding for several shelters is based on a system of daily rates, disbursed by the government for women who are entitled to basic social welfare. The government does not reimburse the stay in shelters of women not entitled to social welfare, which in practice prevents asylum seekers from approaching shelters to seek for help⁶⁵.

⁵⁹ [Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.](#)

⁶⁰ GREVIO, 2017, *Baseline Evaluation Report Austria*, para.100.

⁶¹ *Ibid.*, paras 100 and 101.

⁶² *Ibid.*, para.107.

⁶³ *Ibid.*, para.106.

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*

- Victim support services (shelters, phone helplines)

Article 23 of the Convention obliges Parties to establish appropriate, easily accessible **shelters** in sufficient numbers and to reach out to victims, especially women and their children⁶⁶. As a result, Member States should not only have a sufficient number of shelters, preferably women-only, but should proactively seek to help and support women victims⁶⁷. In addition to shelters, the Convention requires Member States to set up free-of-charge **telephone helplines**, available nationwide and around the clock. The helplines should advise victims confidentially, or with due regard for their anonymity⁶⁸. The CoE Task Force to Combat Violence against Women recommends the establishment of at least one free national helpline for victims of all forms of violence against women, operating 24/7 and providing support in all relevant languages⁶⁹.

Despite the variety of support services that exist, women's **shelters** have long been the primary support service for women and their children⁷⁰. In most Member States, shelters welcome and support women victims of violence and their children, however, very few are specialised in a certain type of violence. The Explanatory Report of the Istanbul Convention points out that it is crucial for shelters to apply a set of standards, such as a trained staff for each type of violence, in order to provide efficient protection and support⁷¹. In some countries, such as **Cyprus**, the law requires state services and NGOs to ensure that enhanced protection is afforded to victims because of the high risk of further victimisation, coercion and revenge connected to this type of violence⁷².

It is also necessary for shelters to exist in sufficient numbers to provide appropriate temporary accommodation and to ensure that the needs of all victims are met⁷³. The latest data suggest a 38% shortfall in the minimum number of shelter places, while only four countries exceed the minimum number of shelter places (one place specialised in women's services per 10,000 inhabitants), i.e. **Denmark, Latvia, Luxembourg** and **Slovenia**. However, women-only shelters may limit accessibility of shelters to some mothers. In **Bulgaria**, some shelters only admit women, others admit women and children, and some do not admit women with sons above a certain age, creating additional difficulties for these mothers.

National women's **helplines** are among the core services that women approach for immediate support and advice. In all Member States, without exception, helplines exist either for women specifically, or for victims of violence in general. According to Article 24 of the Istanbul Convention, Member States must set up nationwide telephone helplines in relation to all forms of violence⁷⁴. Most Member States have general helplines. At least half of the Member States already have lines for general violence against women - such as **Greece, Spain, France** and **Luxembourg** - however, none has a specialised helpline for women victim of a certain type of crime (e.g. domestic violence). Some countries have specialised helplines for certain type of crime, such as domestic violence and/or sexual violence, accessible to both male and female victims (e.g. **Belgium, Hungary, Luxembourg** and **Poland**). In some countries, such as **Finland**, there are specific

⁶⁶ [Article 23 of the Istanbul Convention.](#)

⁶⁷ [Explanatory Report of the Istanbul Convention, Article 23.](#)

⁶⁸ [Article 24 of the Istanbul Convention.](#)

⁶⁹ [Explanatory Report of the Istanbul Convention, Article 24.](#)

⁷⁰ WAVE Report, 2016, *Role of specialist women's support services in Europe*, available at: <https://www.wave-network.org/24-featured-news/117-wave-report-2015-published>

⁷¹ [Explanatory Report of the Istanbul Convention, Article 23.](#)

⁷² National Level Research carried by Milieu.

⁷³ [Explanatory Report of the Istanbul Convention, Article 23.](#)

⁷⁴ [Article 24 of the Istanbul Convention.](#)

helplines for immigrant women, including a national helpline, a chat group and an online peer support group. As reiterated by the Istanbul Convention, helplines should be available in a variety of languages. In **Germany**, for instance, the state helpline is available in German, English, French, Spanish, Russian, Turkish and 11 other languages⁷⁵. In addition, alternatives to helplines are arising, such as in **Austria**, where a smartphone app offers the option to contact aid groups quickly and easily. Prevention helplines are also appearing. In **France**, for example, there are phones called 'Great Danger Phones'⁷⁶ which is a specific phone that allows a victim of domestic violence to immediately get in contact with a specialised platform that will directly alert the police station and geolocate the victim.

Prevalence of sexual harassment are reportedly high with one in five women experiencing unwelcome touching, hugging and kissing since the age of 15, with approximately 75% of women in a professional capacity or in top management position having experienced sexual harassment in their lifetime. However, the research did not identify specialised helplines on sexual harassment. Where helplines specialised on violence against women exist, those usually are able to provide specialised support for this type of violence as well. Equality bodies are competent to provide victim support with respect to sexual harassment at work, although it may be limited to legal advice or referral to other services. Considering the prevalence of the issue, specialised support seems lacking across the EU.

- **Health care services (psychological counselling)**

State Parties to the Istanbul Convention must take the necessary measures to ensure that victims have access to adequately resourced healthcare and to trained professionals⁷⁷. Within the scope of this study, the research focused on the availability of psychological counselling, as this type of service is relevant to all forms of violence.

All Member States (with the exception of **Bulgaria**) offer psychological support through specialised healthcare services or via the financial support of local NGOs (e.g. **Cyprus, Greece, France, Latvia, Lithuania** and **Hungary**). **Denmark** includes specialised healthcare services in its general healthcare.

Some countries, such as the **Netherlands** and the **UK**, have established centres for **sexual violence**, with specialised teams of doctors, nurses, police, psychologists, and aid workers helping victims of sexual violence and rape. According to the WAVE 2015 report, there are 108 Rape Crisis Centres and 36 Sexual Assault centres in the UK offering medical, practical and emotional support to victims⁷⁸. In the Netherlands, the Model protocol for medical care for women and girls with FGM set up in 2010 by several medical professional organisations, provides recommendations to professionals delivering psychological, medical and sexual care to victims of FGM on aspects such as prevention, as well as urgent aid and long-term care⁷⁹. In **Portugal**, a crisis centre for women and girls who are victims of sexual violence has been available in Lisbon since 2016. This specialist service offers psychosocial support and individual psychological support to women and girl victims of sexual violence.

⁷⁵ [Helpline from the Federal Ministry for Family Affairs, Senior Citizen, Women and Youth.](#)

⁷⁶ [Great Danger Phones.](#)

⁷⁷ [Article 20 of the Istanbul Convention.](#)

⁷⁸ [WAVE Report 2015 on the role of specialist women's support services in Europe](#), January 2016, p. 96

⁷⁹ [WAVE Report 2015 on the role of specialist women's support services in Europe](#), January 2016, p. 92.

- Legal aid

Legal aid is understood to encompass funding and assistance provided by Member States to enable individuals to exercise their right of access to justice⁸⁰. However, victims' access to criminal justice systems differs greatly among Member States, particularly with respect to the legal means available to victims, and the ability of criminal courts to compensate and provide redress to victims. The differences were thoroughly analysed in a report published by FRA in 2014 on the extent and nature of support for victims in the EU, focusing on their obligations under the Victims' Rights Directive⁸¹. The research carried out by FRA demonstrated that while in general, free legal aid is available to victims in almost all Member States, in most cases it is subject to an economic means test and economic criteria may be waived only for certain categories of victims, such as children, domestic violence or sexual violence victims⁸². In some Member States free legal advice is limited to EU nationals and third country nationals who are legal residents. Even though making free legal aid conditional on an economic means test or legal residence could be justified, the conditions can pose 'difficult bureaucratic hurdles, particularly where legal aid is required quickly to guarantee the victims' rights'⁸³.

Under the Istanbul Convention, it is for each Party to decide the requirements for such aid in their national law⁸⁴. Therefore, it is important to highlight that the Convention does not give victims an automatic right to free legal aid⁸⁵.

According to national level research carried out for this research paper, some form of legal aid or legal advice is available nationwide in all EU Member States and is provided by the state in all cases, except for the **Netherlands**, where it is privately funded. **Lithuania** and **Slovenia** follow a hybrid model, with legal aid funded by both the state and civil society (some NGOs run specialised assistance centres).

Good practices on legal support available to women victims of violence also exist in **Greece**. Greece operates a national programme aiming at providing free legal aid to minors and young persons without the financial means to hire a lawyer⁸⁶. While the programme in principle supports persons up to 30 years old, for criminal cases related to domestic violence or other forms of violence where the victim is a woman, the age limit is increased to 35. Women of all age may also resort to the counselling centres established in the context of the NAP for prevention and combating of violence against women. The centres provide free counselling services to women, without them having to fulfil socioeconomic criteria⁸⁷. The provision of legal aid is often ensured through cooperation with the Bar Associations of the cities where the centres are established, an interesting example of a multi-agency approach taken to combat violence against women and assist victims.

To conclude, providing free legal aid and legal advice to women victims of violence is crucial, for such aid enables them to effectively exercise their rights. While the Istanbul Convention gives considerable leeway in the Member States design and operation of their

⁸⁰ [Article 3 of Council Directive 2002/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes, OJ L 26, 31.1.2003.](#)

⁸¹ FRA (2014), [Victims of crime in the EU : the extent and nature of support for victims.](#)

⁸² *Ibid.*, p.42 and 43.

⁸³ *Ibid.*, p.54.

⁸⁴ [Article 57 of the Istanbul Convention.](#)

⁸⁵ [Explanatory Report of the Istanbul Convention, Article 295.](#)

⁸⁶ Athens' Association of Trainee and Young Lawyers – Programme for the provision of free legal aid to young persons, Athens' [Association of Trainee and Young Lawyers' website.](#)

⁸⁷ General Secretariat for Gender Equality (2017), 'National Action Plan for Gender Equality 2016-2020'.

legal aid systems, they should do so with full respect of Article 6 ECHR on fair trial and Article 47 of the EU Charter of Fundamental Rights on the right to an effective remedy and also acknowledge the link between the effective implementation of the Convention and equipping women with the necessary legal support to ascertain their rights.

1.2.2. Data availability

Article 11 specifies the measures that Member States should take in respect of data collection and research. It requires Member States to collect, analyse and publish statistical data from administrative sources and population surveys on all forms of violence covered by the Convention. It also obliges Member States to support research into causes and effects of violence against women, as well as research evaluating the measures taken.

1.2.2.1. Administrative data

Previous comparative research on administrative data collection practices has shown **vast differences** between Member States and sectors within Member States⁸⁸ not only in terms of the data recorded, but also the definitions, categories and units used and the forms of publication. The following section provides a synthesis of the most recent information on administrative data collection gathered by EIGE⁸⁹ and by the Council of Europe⁹⁰. Data collection practices are extremely difficult to assess because little data is published (see below), different institutions are in charge and the issue is highly complex. Findings are therefore based on a) reported data collection practices/availability and b) published data (either on the EIGE database or on national websites).

1) Data should be collected by all relevant administrative services involved in the prevention of violence against women and protection of its victims. These include law enforcement agencies (police), judicial authorities, healthcare services, social welfare services and NGOs⁹¹.

Crime statistics on violence against women is usually collected by first recording individual offences and then adding victims' information (the crucial category being victim's sex) and the context of the incident (domestic context or not) for each incident or by identifying and recording domestic violence cases in a separate system and adding the specific types of offenses within that case⁹². The former way is much more frequent, the second is practised, for example, in Luxembourg, the Netherlands and Poland⁹³.

In all 28 Member States, data on some form of **intimate partner violence (IPV) and/or domestic violence (DV)** against women is collected from **police** sources⁹⁴. In most

⁸⁸ Police and justice authorities, social welfare and protection services, health institutions.

⁸⁹ EIGE studies focus on domestic violence (DV)/ intimate partner violence (IPV), femicide and rape. Little information exists on other forms of violence (see point 1 below).

⁹⁰ Council of Europe, 2014, [Analytical Study of the results of the 4th round of monitoring the implementation of Recommendation Rec\(2002\)5 on the protection of women against violence in Council of Europe Member States](#).

⁹¹ Council of Europe, 2016, 'Ensuring data collection and research on violence against women and domestic violence: Article 11 of the Istanbul Convention'.

⁹² Council of Europe, 2014, [Analytical Study of the results of the 4th round of monitoring the implementation of Recommendation Rec\(2002\)5 on the protection of women against violence in Council of Europe Member States](#), p. 41-42.

⁹³ Ibid.

⁹⁴ EIGE, 2017, *Administrative data collection on rape, femicide and intimate partner violence in EU Member States*; For DK, the information has been updated, as victim sex is recorded (Source: Danmarks Statistik, [webpage on Kriminalitet 'Criminality'](#)); RO collects sex-disaggregated data on DV-related sexual, psychological and economic violence cases as well as on all DV cases against women (source: EIGE (updated 06/11/2016) [Gender-based violence data from administrative sources at the national level](#)).

Member States, this includes data on physical and sexual violence offences. While specific data on psychological DV/IPV violence could be retrieved from 13 Member States, data on economic violence could only be retrieved for Hungary and Bulgaria⁹⁵. More Member States reportedly collect data on IPV/DV psychological and economic violence, but did not submit data on these specific forms⁹⁶. Inferring from these results, one can assume that in the majority of Member States, police data on physical and sexual violence are collected at least by victim sex, and in some also on psychological and economic violence⁹⁷. Data on **homicide, rape, sexual assault and other sexual offences** against women are collected by the police in a majority of Member States⁹⁸, while data on **stalking** of women is collected in only 12 Member States⁹⁹. The gap in recording psychological and economic violence cases is because, in some Member States, victim information is recorded solely for the most grievous offences. Studies show that police are an important data source, as their data is typically nationally harmonised, with well-developed quality assurance mechanisms¹⁰⁰. Nevertheless, there are some issues affecting reliability and accuracy of this data. Data recording is entirely dependent on police officers and is, thus, subject to human error and individual interpretation of an incident. Therefore, training in adequately identifying and classifying forms of violence against women (e.g. domestic violence), is crucial¹⁰¹.

Data collection from **justice authorities** (prosecutions and courts) is less frequent, chiefly because victim information is often not recorded as data, therefore cases of violence against women cannot be counted. Justice authorities in approximately half of the Member States collect data on IPV, rape and/or femicide against women¹⁰².

Data collected at national level from **social services**, and especially from **health institutions**, is also less frequent than that from the police. In 20 Member States¹⁰³, data on DV or IPV from social services is compiled at national level, with four more Member States¹⁰⁴ collecting data on rape through such services. Only nine Member States¹⁰⁵ collect

⁹⁵ EIGE, updated 06/11/2016, [Gender-based violence data from administrative sources at the national level](#).

⁹⁶ Milieu, (to be published), [Analytical Paper on administrative data collection on rape, femicide and intimate partner violence](#), Annex 39 'Availability of data on intimate partner violence in EU Member States', EIGE.

⁹⁷ To date, there is no comprehensive EU-wide overview of the offences recorded by victim gender (and further disaggregations) in Member States that would constitute physical or psychological violence (outside the IPV/DV context). EIGE research and publications provide an overview of data collected on IPV/DV, different types of sexual violence, stalking and homicide. As police and justice authorities collect data on criminal offences, IPV/ DV data thus comprise data on the individual offences constituting IPV or DV, together with a tag indicating the DV/IPV context; however, in those Member States where IPV/ DV constitutes a separate criminal offence, data may relate to this offence. Therefore, if Member States collect data on different types of IPV/DV, it can be assumed that they also record data on the different offences by victim gender, outside of the IPV/DV context.

⁹⁸ For detailed information, see: EIGE, 2017, [Administrative data collection on rape, femicide and intimate partner violence in EU Member States](#) and EIGE, 2016, [Gender-based violence data from administrative sources at the national level](#); some differences may exist between these two sources, either because data reportedly is collected, but was not submitted to the database because of the time lag, or because detailed information was not provided consistently by stakeholders.

⁹⁹ EIGE, 2016, [Gender-based violence data from administrative sources at the national level](#).

¹⁰⁰ Council of Europe, 2016, *Ensuring data collection and research on violence against women and domestic violence: Article 11 of the Istanbul Convention*, p.13; EIGE, 2017, *Administrative data collection on rape, femicide and intimate partner violence in EU Member States*.

¹⁰¹ Council of Europe, 2014, [Analytical Study of the results of the 4th round of monitoring the implementation of Recommendation Rec\(2002\)5 on the protection of women against violence in Council of Europe Member States](#).

¹⁰² EIGE, 2017, *Administrative data collection on rape, femicide and intimate partner violence in EU Member States*.

¹⁰³ AT, CY, CZ, DK, EE, ES, EL, FR, HR, HU, IE, IT, LV, LU, MT, NL, PL, PT, FI, SE; source: EIGE, 2017, *Administrative data collection on rape, femicide and intimate partner violence in EU Member States*; AT was added based on additional information from the report to GREVIO; information differs from that in EIGE, 2016, *Administrative data collection on violence against women. Good practices*, due to different methodological approaches; the countries cited here correspond broadly to those on EIGE's portal, [Administrative data sources on GBV in the EU](#), with deviations resulting from the time lag (EIGE portal refers to 2013).

¹⁰⁴ BG, LT, RO, SK.

¹⁰⁵ DK, ES, HR, LV, MT, NL, RO, FI, SE.

these data from health institutions at a national level, several of whom refer exclusively to sexual violence (rape) cases.

2) Disaggregation of data: Data should contain at least the following breakdowns: the type of violence, sex and age of both victim and perpetrator, victim-perpetrator relationship and geographical location¹⁰⁶. Additional information, e.g. victim disability, is also advisable.

In almost all Member States¹⁰⁷, the categories in which data from the police and/or justice authorities are collected and reported allow for distinctions **between the different types** of violence mentioned in point 1). Unless DV/IPV is a specific offence in the Criminal Code and data refer only to this crime, data are usually collected separately for the individual offences. However, these data may then be reported or published as aggregates. Social services mostly record data under the general category of 'domestic violence' and few differentiate between the broad categories of physical, psychological and sexual violence (e.g. IE, FR, IT, LU, MT, FI)¹⁰⁸. However, incidents of 'rape' are often recorded separately¹⁰⁹. Health institutions are reported to most frequently use the International Classification of Disease (ICD-10) coding system¹¹⁰ which distinguishes between different types of violence. As described above, all Member States are able to provide police data disaggregated by the **sex of the victim**. However, they frequently do not record this information for all offenses. As mentioned above, in several Member States, victim information is only recorded for the most serious offenses.

In almost all Member States, police data also contain the **sex of the perpetrator, the age of victim and perpetrator**, as well as **the location of the crime**¹¹¹. By contrast, in several Member States, data from the justice sector frequently lacks information on the victim (see point 1 above). On the other hand, in 17 Member States, police and/or justice authorities provide sufficiently detailed victim-perpetrator relationship information to identify intimate partner violence cases¹¹².

While the nationality of victims and perpetrators is recorded in many Member States' police crime statistics, further important information (such as disability and socioeconomic status) does not seem to be recorded in administrative data and can only be retrieved through surveys or through linking information (e.g. Denmark, see best practices below), which raises questions of data protection.

Where denominators such as age, sex and victim-perpetrator relationship are recorded, it should be possible to combine them. EIGE's database, however, shows that police data broken down by the sex of the victim and the suspect was reported by eight Member States only and by seven more only for homicide data¹¹³. Council of Europe monitoring from 2014

¹⁰⁶ Council of Europe, 2016, *Ensuring data collection and research on violence against women and domestic violence: Article 11 of the Istanbul Convention*, pp.9-10.

¹⁰⁷ Exceptions include EL, LU, PL, where DV/IPV data were provided as an aggregate, without specifying the type of violence.

¹⁰⁸ EIGE, 2017, *Administrative data collection on rape, femicide and intimate partner violence in EU Member States*.

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

¹¹¹ EIGE [website on administrative data sources](#) from police (only category administrative sources), Council of Europe, 2014, *Analytical Study of the results of the 4th round of monitoring the implementation of Recommendation Rec(2002)5 on the protection of women against violence in Council of Europe Member States*, Table 20 and national sources, where information was available.

¹¹² EIGE, 2017, *Administrative data collection on rape, femicide and intimate partner violence in EU Member States*.

¹¹³ EIGE, updated 06/11/2016, [Gender-based violence data from administrative sources at the national level](#) – section 'Metadata'.

also showed that a combination of denominators was possible in only about half of the Member States, not indicating for which offenses¹¹⁴. This illustrates the continued presence of large gaps in respect of combining denominators.

3) Data should be gathered in the following **units of measurement**¹¹⁵: number of victims, number of perpetrators, number of events (crimes or incidents). Given the complexity of the issue, this point was assessed solely for police data sources, showing that the majority of Member States collect data in these three units.

4) Data should be made **available to the public**, i.e. it should be provided on an open website in the form of indicators and summaries, together with access to databases. Ideally data should be brought together in a single location¹¹⁶.

Member States publish only a fraction of the data collected. Additional issues in data publication can also be identified. Firstly, **data are not published from all relevant administrative sectors**. Only Spain and Croatia reportedly publish data from all four sectors at national level (police, justice, health and social services)¹¹⁷. Secondly, **published data are insufficiently precise to provide insight into cases of violence against women**, although the data from the police and social services is frequently published by victims' sex. In 2014, statistical police reports including disaggregated statistics or specifically on domestic violence were identified in over half of the Member States¹¹⁸. Nevertheless, in most Member States, published data do not present different combinations of relevant denominators and units, thereby giving an incomplete picture. While these combinations may be calculated at the request of the competent Ministries, the datasets are often not directly accessible to the public. Thirdly, **data from the different sources are not compiled in one open website** (as suggested by the Convention) in most Member States, but are scattered across different Ministries' or the websites and reports of National Statistical Offices (NSOs). Four Member States publish both police and judicial data through the Central Statistical Office (Czech Republic, Denmark, Italy and UK England and Wales)¹¹⁹. Austria, Spain, France, Hungary, Luxembourg, Malta, the Netherlands, Portugal and Sweden¹²⁰ gather and present data from different sources on a dedicated website, or in a specific report on violence against women.

Data on Female Genital Mutilation (FGM)

Data on FGM are available in a few Member States¹²¹: from all four types of administrative sources in Belgium; from health institutions in Denmark, Malta, Portugal and the UK; from the police in Croatia; and from the Central Statistical Office in Finland.

¹¹⁴ Council of Europe, 2014, *Analytical Study of the results of the 4th round of monitoring the implementation of Recommendation Rec(2002)5 on the protection of women against violence in Council of Europe Member States*, Table 20.

¹¹⁵ EIGE [website on administrative data sources](#) from police (only category administrative sources) and national sources, where available.

¹¹⁶ Council of Europe, 2016, *Ensuring data collection and research on violence against women and domestic violence: Article 11 of the Istanbul Convention*, p.11.

¹¹⁷ Refers to EIGE information from 2013, as the most comprehensive and covering all sectors; EIGE portal, [National sources of survey and administrative data on gender-based violence, statistical products](#).

¹¹⁸ Council of Europe, 2014, *Analytical Study of the results of the 4th round of monitoring the implementation of Recommendation Rec(2002)5 on the protection of women against violence in Council of Europe Member States*, Table 20.

¹¹⁹ EIGE portal, *National sources of survey and administrative data on gender-based violence, statistical products*, available at: <http://eige.europa.eu/gender-based-violence/administrative-data-sources>; additional information retrieved from publicly available data.

¹²⁰ See Tables 3 and 4 in Annex.

¹²¹ EIGE, 2016, *Administrative data collection on violence against women. Good practices*.

Data on forced marriage/forced sterilisation

Crime statistics on these forms of violence are collected only in those Member States where such incidents are criminalised and constitute a specific offence in the Criminal Code, thereby recorded separately. (See Section 2.3 on the types of violence criminalised in each Member State.)

A 2016 study¹²² found data on forced marriages to be extremely scarce and difficult to identify. The study only identified data in 10 Member States from various sources, such as crime statistics, surveys or data from victim support services. The study suggested that forced marriage is considerably under-reported, studies are often not representative, and data are not collected systematically¹²³.

1.2.2.2. Surveys and research

Surveys are the only means by which the actual extent of violence against women can be estimated. Article 11 of the Istanbul Convention therefore asks Member States to conduct population-based surveys of all forms of violence against women, which should be statistically representative of the population at local, regional or national level, and conducted at regular intervals¹²⁴. This section provides an overview of population surveys conducted at national level¹²⁵, e.g. those specifically on violence against women or those including a module or questions on these types of violence.

Since the adoption of the Istanbul Convention in 2011, most Member States have conducted at least one nationwide survey indicating prevalence of some form of on violence against women – either through a specific survey on violence against women or domestic violence or through a general population survey including a module on violence. In Greece, Hungary, Ireland, Lithuania, Portugal, Slovakia and Slovenia, however, the most recent surveys that would indicate prevalence of violence against women were carried out before 2011.

Carrying out such surveys at **regular intervals** would allow for trend analysis. However, most Member States fall short of this requirement. Only Spain¹²⁶ and Italy¹²⁷ were identified to having repeatedly carried out national population surveys specifically on violence against women repeatedly and Estonia includes questions on violence in a regularly conducted gender equality survey. Apart from this, longitudinal results can only be derived from modules in regular victimisation surveys (as is the case for Croatia, Denmark, Estonia, Spain, France, Finland, Sweden and the UK) or health surveys (e.g. Belgium). This suggests that those general population surveys are the most important source for trend estimated of prevalence of violence against women. However, surveys where experienced violence is not the focus, but only covered as one (often short) module, may not allow for inferences about prevalence of gender-based violence. This is due to the fact that the study design is not adapted to the specific problem and therefore the sampling and the instrument may not cover crucial target groups and dimensions of violence, respectively. For example, a German Health Survey was heavily criticised for its surveying method, analyses and interpretations that were found inadequate for comparing

¹²² European Parliament, 2016, *Forced marriage from a gender perspective*.

¹²³ Ibid., p.33.

¹²⁴ Article 11 and Explanatory Report, Istanbul Convention.

¹²⁵ EIGE, 2017, *Note on prevalence surveys on rape and intimate partner violence in the EU-28*; information from national experts collected for this study.

¹²⁶ Macro victimisation survey on VAW since 1999, every 4-5 years ([Macroencuesta de violencia de género](#))

¹²⁷ 'Violence against women within and outside the family' (2006 and 2015) ([La violenza contro le donne dentro e fuori la famiglia](#)).

experiences of violence among men and women¹²⁸. While acknowledging these deficits, the institute conducting the survey underlined that an analysis of gender dimensions of violence was not the purpose of the survey. This illustrates that it may seem more cost-efficient to estimate prevalence of different forms of gender-based violence in general health of victimisation surveys, but that this approach can easily lead to misinterpretations and distorted results.

National surveys differ considerably in age groups covered, types of violence covered and their definition. Surveys in most Member States ask for experiences of physical, sexual or psychological violence, as well as the victim-perpetrator relationship. Economic violence is far less covered by the surveys¹²⁹. While definitions are often based on those suggested by the UN Statistical Commission¹³⁰ (same or similar wording or items), they frequently omit several aspects of the suggested definitions. For example, questions on rape often only refer to the element 'use of force and/or lack of consent', in combination with 'sexual intercourse', without specifying that rape also includes cases where advantage of vulnerability is taken, where penetration occurs with an object or different bodily parts and cases of marital rape. Another example is psychological violence, which often does not include the dimensions of humiliation and intimidation, although these suggested by the UN Statistical Commission¹³¹. Surveys also differ in the timespans covered, e.g. lifetime, past 12 months¹³².

Article 11 further requires that Member States carry out research with the following aims: to understand causes and effects of violence against women; to estimate conviction rates; and to assess the efficacy of policy measures taken¹³³. Important initiatives in this regard included the DAPHNE Programme, funded by the European Commission and the Norway/European Economic Area (EEA) grants. The Norway/EEA grant programme 'Domestic and gender-based violence' (2009-2014) supported projects in several new Member States. In Estonia, for example, funds were used to carry out several research projects, for example on victim awareness of support services, moral damage, and the social cost of violence against women, as well as several surveys¹³⁴.

1.2.2.3. Best practices of data definition, collection and analyses

In light of the various aspects of data collection described above, the following best practices examples were identified based on a range of criteria¹³⁵ and in different areas of data collection (data collection/ processing and publishing).

¹²⁸ Critique was targeted at an article that drew conclusions about different experiences of violence among the German population between men and women, based on the German 'Study on health of adults' (*Studie zur Gesundheit Erwachsener in Deutschland*); however, the survey as such was also criticized as an inadequate instrument to capture domestic violence or violence from a gender perspective. Source: Robert Koch Institut '[Positions on the article 'Experience of bodily and psychological violence in the German adult population'](#)'.

¹²⁹ For detailed information on the types of violence, gender and age groups covered, see EIGE, 2017, *Note on prevalence surveys on rape and intimate partner violence in the EU-28*, Annex I.

¹³⁰ UN, Economic and Social Affairs, Statistics Division, 2014, [Guidelines for Producing Statistics on Violence against Women](#), New York, p.16.

¹³¹ EIGE, 2017, *Administrative data collection on rape, femicide and intimate partner violence in EU Member States*.

¹³² EIGE, 2017, *Administrative data collection on rape, femicide and intimate partner violence in EU Member States*.

¹³³ Council of Europe, 2016, *Ensuring data collection and research on violence against women and domestic violence: Article 11 of the Istanbul Convention*, p. 21.

¹³⁴ Research by national experts for this study.

¹³⁵ Criteria were that the examples should comply as much as possible with the requirements of the Istanbul Convention. As no country complies perfectly with all requirements, examples highlight different aspects where data collection is carried out as suggested by the Convention. Note that these are only examples and that similar systems may exist in other Member States.

Best practice example 1 – Detailed police data collection and processing

The database used by the **German** federal criminal police office is a good example of an **electronic database which allows for fast calculation of different combinations** of denominators. Data are recorded in very detailed categories, each of which corresponds to an offence in the Criminal Code, thus allowing detailed breakdowns for individual offences or aggregates¹³⁶. For example, a special crime statistics report on intimate partner violence presents aggregates of recording categories that show the different types of violence (physical, psychological, sexual¹³⁷) with the relevant breakdowns¹³⁸. More specific analyses (for individual offences or by other units, e.g. number of victims, different age groups, etc.) can be calculated by the federal criminal police office on request.

Best practice example 2 – Central compilation and publication of data from different sources

Ideally, data from different sources should be centrally collected and presented in a single location, such as the comprehensive **Statistical Portal** maintained by the **Spanish Government Delegation for gender-based violence**¹³⁹. This interactive database contains data on gender-based violence (focusing on intimate partner violence¹⁴⁰) from different administrative sources. Users can cross-tabulate several indicators for different years. The Delegation also maintains a **website, 'For a society free of gender-based violence'**, which contains information on relevant policies, programmes and laws. The section 'Statistics, surveys, studies and investigations' contains links to all relevant data publications on violence against women¹⁴¹.

Best practice example 3 – Clear and coherent definitions

Data from different sources should be presented similarly, using the same classifications, if it is to be comparable. Definitions should be sufficiently specific to allow for the different forms of violence to be differentiated.

In 2013, **France** set up an Interdepartmental Unit for protecting Women against Violence and for Combatting Trafficking in Human Beings (MIPROF¹⁴²). This Unit publishes a wide range of data from different sources in the form of annual reports¹⁴³ on key aspects of violence against women. Most of the reports refer to clearly defined types of violence (mainly intimate partner violence, sexual violence, FGM and forced marriage). These clear definitions mean that data on prevalence (from surveys), police records, convictions and contacts with social services can be compared within a single report. The report is then repeated after a number of years, allowing for a comparison over time. Further

¹³⁶ Federal Criminal Police Office (*Bundeskriminalamt*), [Police Crime Statistics 2015](#).

¹³⁷ Categories used are murder and manslaughter/dangerous bodily harm/grievous bodily harm/bodily harm leading to death/intentional simple bodily harm/ rape and sexual coercion/threat/stalking.

¹³⁸ Federal Criminal Police Office (*Bundeskriminalamt*), 2016, [Partner Violence. Analysis of crime statistics – reporting year 2015](#) (*Partnerschaftsgewalt. Kriminalstatistische Auswertung – Berichtsjahr 2015*).

¹³⁹ [Delegación del Gobierno para la Violencia de Género Portal Estadístico](#).

¹⁴⁰ As a result of legal development, the connotation of the Spanish term, *Violencia de Género* is 'partner violence of men against women', (partner violence was the first type of violence against women to be regulated under a specific act).

¹⁴¹ Spanish Government, web portal, *Por una Sociedad libre de violencia de género*, data section, 'Estadísticas, encuestas, estudios e investigaciones'

¹⁴² MIPROF, Mission interministerielle pour la protection des femmes contre les violences et la lutte contre la traite des êtres humains.

¹⁴³ MIPROF, 2015, [La lettre de l'observatoire national des violences faites aux femmes](#): les principales données.

improvements would be to expand the scope to include psychological and economic violence¹⁴⁴, which are part of the legal definition used in France.

Best practice example 4 – National data compiled by social services

Compilation of harmonised data from social services is very challenging, both because of the different types of services (shelters, telephone hotlines, support services, legal advice services, etc.) and the fact that services often target specific groups (e.g. migrant women, young women).

A special example of centralised data collection from social services is the **centralised data collection from shelters in Denmark**¹⁴⁵. The Danish national action plan to combat violence against women sets aside a specific budget for data collection and analysis, as part of which Denmark's 42 shelters organised by the National Organisation of Centres (LOKK¹⁴⁶), collect common data. These data are based on information provided during the women's first contact with the shelter and are very detailed, including socio-demographic details and information on the nature of the violence experienced. With the agreement of the victim, the shelters register the data together with the victim's ID number (in accordance with data regulation rules) in order to link it with administrative data (such as the national patient register or criminal statistics). Linked data is encrypted and fed into microdata sets, which are made available to researchers on request. Currently, around 30% of the shelters' cases are linked, as not all victims agree to share their ID number. In addition to the detailed analysis that can be carried out based on these linked data sets, follow-up studies are conducted (e.g. support received at the shelters and the outcome of the stay).

¹⁴⁴ Web portal, [Violence contre les femmes. Ce que dit la loi. Violences au sein du couple](#).

¹⁴⁵ For detailed information on this case, see EIGE, 2016, *Administrative data collection on violence against women. Good practices*, p. 45.

¹⁴⁶ LOKK was established in 1987 as a union of 42 women's shelters and counselling centres in Denmark. LOKK's mission is to support the shelters in their effort to prevent, combat and create awareness of physical and physiological violence against women and their children.

2. THE ISTANBUL CONVENTION: EU MEMBER STATES' RATIFICATION AND IMPLEMENTATION PROCESSES

KEY FINDINGS

- The Istanbul Convention understands violence against women as a manifestation of historically unequal power relations between the two sexes. It also acknowledges that domestic violence affects women disproportionately. The Convention builds on international initiatives, such as CEDAW and the Beijing Declaration and Platform for Action, but constitutes the first international legally binding instrument to protect women against all forms of violence.
- The Convention establishes obligations on Parties structured around four main pillars: integrated policies, prevention of all forms of violence, protection of victims from further violence, and prosecution of perpetrators.
- At the time of the study, only 14 Member States deposited their ratification instruments of the Convention by the cut-off date of 1 September 2017. Three more Member States adopted the ratification acts and deposited their ratification instruments October/November 2017. Ratification is pending in a further 11 Member States.
- Ratification of the Convention requires Member States to make the necessary adjustments to their legal and policy frameworks. Member States which ratified the Convention often had to amend their criminal legislation to introduce new offences or stricter sanctions and to adopt effective policy measures.
- In terms of legislative measures, the Convention requires Parties to embody the principle of equality between men and women. Member States which ratified the Convention already complied with this requirement prior to ratification. However, national legal and policy measures frequently fail to clearly articulate the link between strong equality legislation as a means of combatting violence against women.
- The Convention contains provisions on substantive civil and criminal law. Member States largely comply with the requirement to provide victims with adequate civil remedies against the perpetrators and the right to claim compensation for harm suffered. The legislation of those Member States which ratified the Convention contains general provisions often enabling all 'victims of crime' or of 'offences' or 'persons who suffered damage' to seek remedies such as protection or restraining orders and to claim compensation before the courts.
- State Parties must criminalise several forms of violence against women: psychological violence, stalking, physical violence, sexual violence (including rape), forced marriage, FGM, forced abortion and forced sterilisation, and sexual harassment. National legal frameworks are not always fully aligned with the Convention, due to the lack of explicit criminalisation of certain offences, or the use of national definitions which do not fully capture the scope of the offences as defined in the Convention.
- The Convention establishes a monitoring mechanism to ensure smooth implementation, which is comprised of GREVIO and the Committee of the Parties.

- The evaluation reports of Austria and Monaco provide useful insights into GREVIO's interpretation of the Convention's requirements. GREVIO encouraged national authorities to establish dedicated and specialised support services for women victims of all forms of violence, to supplement legislation with measures ensuring effective access to enjoyment of victims' rights, and to criminalise all acts of violence in accordance with the definitions of offences established in the Convention.

2.1. Background and objectives

The Istanbul Convention was adopted in recognition that 'violence against women is a manifestation of historically unequal power relations between women and men' and that domestic violence affects women disproportionately. The recent recognition of violence against women as a human rights violation moves such violence from being considered a private matter to one falling under the scope of human rights law¹⁴⁷. The international view that domestic violence requires positive action from the state has emerged in recent decades.

The Convention on the Elimination of all forms of Discrimination Against Women (**CEDAW**) does not mention violence against women¹⁴⁸. The link between discrimination and violation came later, in 1992, through CEDAW Committee Recommendation No 19, which acknowledged that 'gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men'¹⁴⁹. Recommendation No 19 required State Parties to CEDAW to 'take appropriate and effective measures to overcome all forms of gender-based violence, whether by public or private act'.

The 1993 **Declaration** on the Elimination of Violence against Women reaffirmed that violence against women constitutes a violation of fundamental rights and impairs or nullifies their enjoyment of those rights¹⁵⁰. The **Beijing Declaration and Platform for Action** is an agenda for women's empowerment, including objectives and actions to achieve gender equality. Violence against women constitutes one of its 12 critical areas of concern¹⁵¹.

These international developments, together with the case law of the Inter-American Court of Human Rights influenced the **European Court of Human Rights (ECtHR)** in considering violence against women within the scope of the European Convention for the Protection of Human Rights and Fundamental Freedoms (**ECHR**). Two landmark cases in this regard are *Bevacqua and S. v. Bulgaria* and *Opuz v. Turkey*, in which the Court recognised a positive obligation on State Parties to protect victims of violence. In this respect, the Court found a violation of the right to family life (Article 8), as well as the

¹⁴⁷ Ronagh McQuigg, 2017, *The Istanbul Convention, Domestic Violence and Human Rights*, Routledge.

¹⁴⁸ United Nations, 1979, [Convention on the Elimination of All Forms of Discrimination against Women](#).

¹⁴⁹ UN Committee on the Elimination of Discrimination Against Women, 1992, [CEDAW General Recommendation No. 19: Violence against women](#).

¹⁵⁰ UN General Assembly, 1993, [Declaration on the Elimination of Violence against Women](#), A/RES/48/104, 20 December 1993.

¹⁵¹ UN General Assembly, 1995, [Beijing Declaration and Platform for Action](#), 15 September 1995.

prohibition of discrimination (Article 14), right to life (Article 2) and prohibition of inhuman or degrading treatment (Article 3)¹⁵².

In parallel with these case law developments, the Third Summit of Heads of State and Governments of the Council of Europe (CoE) established a Task Force to assess gaps on the issue and to make proposals for action. The Task Force concluded that there was a clear need for a Convention to prevent and combat violence against women¹⁵³.

Following the recommendation, the Council of Europe established an Ad Hoc Committee on preventing and combating violence against women and domestic violence, comprising CoE governmental representatives charged to prepare legally binding instrument¹⁵⁴.

The CoE Convention on preventing and combating violence against women and domestic violence (the **Istanbul Convention**) is the culmination of these developments at international level, as well as CoE actions in the field. The Istanbul Convention was adopted by the Council of Ministers in 2011¹⁵⁵ and entered into force in 2014 following its tenth ratification. It is the first legally binding instrument tackling violence against women and domestic violence in Europe.

The Istanbul Convention's main **objectives** focus on four main pillars:

- Preventing violence.
- Protection of victims.
- Prosecution of perpetrators.
- Integrated policies involving all relevant actors and authorities¹⁵⁶.

The Convention establishes obligations on States Parties in respect of these four pillars, as outlined in Table 4 below.

Table 4: Obligations imposed by the Istanbul Convention on its Parties

Pillars	Obligations
Integrated policies	<ul style="list-style-type: none"> ➤ Adopt effective, comprehensive and coordinated policies to prevent and combat violence ➤ Allocate appropriate financial and human resources, support civil society and Non-Governmental Organisations (NGOs) ➤ Collect statistical data
Prevention	<ul style="list-style-type: none"> ➤ Take measures, including legislative, to prevent all forms of violence, address prejudice, traditions and practices contributing to violence ➤ Promote awareness raising ➤ Educate and train professionals ➤ Set up intervention and treatment programmes for perpetrators

¹⁵² ECtHR [Bevacqua and S. v. Bulgaria](#), 12 June 2008; ECtHR, Chamber Judgment, [Opuz v. Turkey](#), 9 June 2009.

¹⁵³ Council of Europe Task Force to combat violence against women including domestic violence (EG-TFV), 2008, [Final Activity Report](#), EG-TFV (2008)6.

¹⁵⁴ Council of Europe [Ad Hoc Committee for preventing and combating violence against women and domestic violence](#) (CAHVIO).

¹⁵⁵ Council of Europe, 2011, [Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence](#), Council of Europe Treaty Series - No. 210, Istanbul.

¹⁵⁶ Council of Europe, [The Convention in brief](#) Article 1 of the Istanbul Convention.

Pillars	Obligations
Protection	<ul style="list-style-type: none"> ➤ Adopt measures to ensure the protection of all victims from further violence ➤ Set up general and specialised support services, including shelters, helplines, assistance for complaints, etc. ➤ Take legislative measures to criminalise physical violence, psychological violence, sexual violence including rape, forced marriage, FGM, forced abortion and forced sterilisation, sexual harassment and stalking ➤ Adopt legislative measures to ensure civil remedies, compensation, effective, proportionate and dissuasive sanctions, and the application of aggravating circumstances
Prosecution	<ul style="list-style-type: none"> ➤ Take the necessary measures so that all forms of violence are investigated without delay and that adequate and immediate protection is provided to victims ➤ Ensure an assessment of risks for victims ➤ Establish emergency barring orders, restraining or protection orders ➤ Ex officio investigation and prosecution of physical violence, sexual violence, forced marriage, FGM and forced abortion and forced sterilisation

The Convention places a separate focus on domestic violence. Its Explanatory Report recognises that domestic violence, while affecting women disproportionately, also affects children and thus requires a specific response¹⁵⁷.

¹⁵⁷ Council of Europe, 2011, [Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence](#), Council of Europe Treaty Series - No. 210, Istanbul.

2.2. Member State ratification

As of October 2017, all 28 EU Member States have signed the Convention and **16** have ratified it¹⁵⁸. This section provides an overview of Member States' ratification status and progress.

State of play of ratification by Member States

At the time of this study (July-October 2017), half of the EU Member States had ratified the Istanbul Convention¹⁵⁹. Three further Member States adopted acts for the ratification of the Convention in the course of the research (**Germany, Estonia, and Cyprus**), with Germany and Estonia depositing their ratification instruments with the Council of Europe in October 2017 and Cyprus in November 2017. While **Germany** signed the Convention in May 2011, six years passed before it was ratified in October 2017. Germany adopted legislation in 2016 to align the national legal framework with the Convention. Relevant amendments were made to the Criminal Code and the Criminal Procedure Code during the ratification process, and reference was made to the Convention in the 2015-2020 National Plan for the prevention of violence. **Cyprus**, which signed the Convention on 16 June 2015, adopted its ratification law in July 2017. The latter deposited with the CoE in November 2017. The research revealed that one piece of legislation will be adopted with the aim to implement the Convention. A correlation table indicating the national provisions corresponding to the Convention articles has been established to that effect. **Estonia** ratified the Istanbul Convention on 20 September 2017, depositing its ratification instrument with the CoE shortly after.

As per Article 75(4) of the Convention, the latter has not yet entered into force for those three countries at the time of this report. The Convention will enter into force in both Germany and Estonia on 1 February 2018 and 1 March 2018 in Cyprus. Once their ratification instruments are lodged and the Convention is in force for those countries, it will bring to 17 the number of EU Member States bound by the Istanbul Convention.

Countries approach international agreements differently. Some consider that once an international instrument is ratified, that instrument is directly applicable in the national legal system and can be invoked before national courts. Those countries follow the so-called monist system of international law. Other countries follow a dualist system, whereby the adoption of national legislation is required for international instruments to have full effect. Nine Member States declare themselves to follow the dualist system, while the remainder follow the monist system¹⁶⁰. As a result, in Member States with a monist system, the Istanbul Convention is directly applicable in the country, once ratified. It is possible, however, that the applicability of specific provisions of the Convention is subject to the clarity of its requirements.

Of the 14 EU Member States analysed for this study, the majority have made a **reservation** with regard to the application of some provisions, under Article 78 of the

¹⁵⁸ Council of Europe, [Chart of signatures and ratifications of Treaty 210](#), accessed 16 October 2017.

¹⁵⁹ Belgium, Denmark, Spain, France, Italy, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Finland and Sweden.

¹⁶⁰ EU Member States with a monist system include Belgium, Bulgaria, Czech Republic, Estonia, Greece, Spain, France, Cyprus, Latvia, Lithuania, Luxembourg, Austria, Poland, Portugal, Romania, Slovenia and Slovakia. The Netherlands has a limited monist system, where only provisions of general binding nature have direct effect. EU Member States with a dualist system include Germany, Denmark, Ireland, Italy, Hungary, Malta, Finland, Sweden and the UK.

Convention. Only **Belgium, Spain¹⁶¹, Italy, the Netherlands, Austria and Portugal** apply the Convention in its entirety.

Table 5: Reservations made by Member States on the basis of Article 78 of the Convention:

MS	Article 30 (state compensation)	Article 44 (jurisdiction)	Article 55 (1) (ex-parte and ex- officio proceedings)	Article 58 (statute of limitation)	Article 59 (residence status)
Denmark		✓ ¹⁶²			
Finland			✓ ¹⁶³		
France		✓ ¹⁶⁴		✓ ¹⁶⁵	
Poland	✓ ¹⁶⁶	✓ ¹⁶⁷	✓ ¹⁶⁸	✓	
Romania	✓	✓	✓	✓	✓
Slovenia	✓	✓	✓	✓	✓
Sweden		✓ ¹⁶⁹		✓	

*In addition to these reservations allowed by Article 78(2) of the Istanbul Convention, **Denmark** and **Romania** have also reserved the right to provide for non-criminal sanctions for the behaviours referred to in Articles 33 and 34 of the Convention (as per Article 78(3)).

Ratification status of Member States which have not yet ratified the Convention

For those 14 Member States which have **not yet ratified** the Convention, the research showed a distinction between those countries where the ratification process is underway, and those which have challenges to overcome before ratification can take place.

Ireland, Luxembourg and the **UK** are in the process of ratifying the Convention, and have taken steps to align their legal and policy framework with the Convention. **Ireland** signed the Convention on 5 November 2015 and even though it has not yet been ratified, its current legislation and administrative practices already implement many of the relevant provisions. The country is currently working towards the final phase of the ratification, and the government has published an Action Plan to achieve this. Legislative work is also in progress, namely the Domestic Violence Bill, which encompasses many aspects of the Convention¹⁷⁰. The enactment of the latter will be a major step towards Ireland's ratification of the Istanbul Convention. **Luxembourg** signed the Convention on the day of the Treaty opening (11 May 2011) but has not yet ratified it. However, the draft Bill aimed at implementing the Istanbul Convention is currently being assessed by the Chamber of

¹⁶¹ They have ratified the Convention in 2014, 2016, 2013, 2015, 2014 and 2014 respectively.

¹⁶² This means that Denmark only has jurisdiction if the criminal acts mentioned in Articles 36, 37 and 39 (sexual violence, forced marriage, forced abortion and forced sterilisation) are criminalised in the territory where they were committed.

¹⁶³ When the offence of petty assault is committed against a person other than the person referred to in Chapter 21, Section 16, subsection 1, of the Criminal Code of Finland.

¹⁶⁴ France declares that it will apply the provisions of Articles 44(1)(e) and (3) and (4) in specific cases or conditions, as the French Criminal Code does not confer jurisdiction on French courts for offences committed abroad by foreign nationals to the detriment of foreigners.

¹⁶⁵ France declares that it will apply the provisions of Article 58 for the offences provided for in Articles 37, 38 and 39 in all cases where such offences are classified as crimes under French Law and in specific cases where those offences are classified as such under French law.

¹⁶⁶ Poland shall apply Article 30(2) solely in respect of victims who are citizens of the Republic of Poland or the EU, in accordance with the relevant procedure.

¹⁶⁷ This will not apply when a person whose habitual residence is the Republic of Poland commits the offence.

¹⁶⁸ Article 55 paragraph 1 shall not be applied in respect of Article 35 regarding minor offences.

¹⁶⁹ Sweden reserves the right not to apply the provisions laid down in Article 44 para.3.

¹⁷⁰ [Department of Justice and Equality, 2015, Minister Fitzgerald publishes heads of new Domestic Violence Bill.](#)

Deputies (Luxembourg Parliament)¹⁷¹. The Draft Law foresees amendments to the Criminal Code, the Criminal Procedure Code, the Law of 8 September 2003 on domestic violence and the Law of 29 August 2008 on free movement of person and immigration. Among other changes, FGM will now constitute a crime, children directly or indirectly victims of violence will be taken care of by social services specialised in domestic violence, and concerned ministries (police, justice, health) must collect annual data disaggregated by sex, age and victim-perpetrator relationship. Finally, in June 2017, the government of the **UK** announced that it will introduce new measures to protect women and girls from crimes committed overseas as part of its Domestic Abuse Bill. This new legislation would be the final step enabling ratification of the Convention.

By contrast, eight Member States are experiencing challenges in their ratification of the Istanbul Convention, for two main reasons.

A distinction should be made for those countries where legislative amendments were a prerequisite to the ratification and which thus justify the delays in the process. This was the case in the **Czech Republic** and **Latvia**, which signed the Convention on 2 May 2016 and 18 May 2016 respectively, and indicated 2018 as a deadline for ratification of the text. Several preparatory works were necessary in Latvia to streamline legislation on victim protection, as well as the introduction of rehabilitation services. These preparatory works slowed down the process of ratification¹⁷², with amendments to the Criminal Procedure Law still in progress¹⁷³. None of the remaining Member States has shown signs of immediate ratification but this research suggests that **Bulgaria** will need to modify its Criminal Code if it is to comply with the Convention, in particular regarding the definition of violence against women, and the criminalisation of all forms of physical violence. In **Bulgaria** and **Croatia** (which signed the Convention in 2016 and 2013, respectively) draft laws are under examination by the parliaments. In **Croatia**, the Ministry for Demographics, Family, Youth and Social Policy appointed a Working Group (comprising members of government bodies and civil society organisations) tasked with the preparation of a ratification law. At the policy level, the 2017-2022 National Strategy for protection against domestic violence takes into account the provisions of the Istanbul Convention. In October 2017, the Minister for Demographics announced that controversy and lack of clarity on the issue of gender remain a concern, and that another debate should take place before the ratification.

In **Greece**, **Hungary**, **Lithuania** and **Slovakia**, political positions make ratification in the near future challenging. Work on the harmonisation of the domestic legal system with the Convention started in 2011 in **Greece**, with a legislative committee appointed to the task, but no concrete outcomes have yet been noted. **Slovakia**, which signed the Convention in May 2011, has twice postponed the ratification process. **Lithuania**, which signed the Convention in 2013, is questioning the terminology in the Convention. So too is **Hungary**, which signed the Convention in 2014. The latter has not yet ratified due to concerns that the Convention could be 'destroying the classical family model which is based on the relationship of heterosexual couples'¹⁷⁴. In addition, some sources note that there is a widespread view in the country that women are not at risk of violence¹⁷⁵. Since 2015, five parliamentary decisions have been drafted, most recently in February 2017. None of these

¹⁷¹ [Luxembourg Chamber of Deputies, webpage of the Parliamentary works.](#)

¹⁷² [Latvian Ministry of Welfare, webpage.](#)

¹⁷³ <http://titania.saeima.lv/LIVS12/saeimalivs12.nsf/0/C9E45E0FFA1DA9BFC2257EC8003F4F70?OpenDocument>.

¹⁷⁴ Association for Women (Nőkért Egyesület), 2017, [Facts and misperceptions regarding the Istanbul Convention](#) (Tények és tévhitek az Isztambuli Egyezményről).

¹⁷⁵ Gyurkó, S., 2017, [Why does Hungary not want to end violence against women?](#) (Miért nem akar Magyarország véget vetni a nőkkel szembeni erőszaknak?).

drafts have yet been discussed by the Hungarian Parliament¹⁷⁶. A demonstration took place on 1 February 2017 to protest against government inaction. In response, a government spokesperson noted that domestic violence in the country is insignificant and that there are bigger issues to solve, such as sexual assaults committed by migrants against women¹⁷⁷. These comments prompted further discussion of the reasons for non-ratification of the Convention¹⁷⁸. The Ministry of Justice published a draft law in relation to the ratification of the Convention in February 2017¹⁷⁹. The draft was subject to public consultation which closed on 23 February 2017¹⁸⁰, and was due to be followed by a similar consultation with the Hungarian public administration. This process would normally result in a draft law, which would then be subject to parliamentary debate before its adoption¹⁸¹. The research carried out for this study found no information on where this process currently stands.

Steps towards ratification

Among those 11 countries which have not yet ratified the Convention, some have nevertheless taken steps to align their legislative and policy framework with the Convention. As mentioned above, **Ireland** is currently preparing the Domestic Violence Bill 2017, which, once enacted, will constitute a major step towards its ratification of the Istanbul Convention. In 2016, Ireland also published the Criminal Justice Bill 2016, the main purpose of which was to transpose the Victims' Rights Directive into Irish law. At policy level, the Second National Strategy on Domestic, Sexual and Gender-based Violence 2015–2020 sets out the outstanding actions required for ratification of the Convention¹⁸².

Luxembourg undertook legislative initiatives as well, with the adoption of the Act of 30 July 2013 on domestic violence which regulates the expulsion of a perpetrator from the family home. The current 2015-2018 National Action Plan for Gender Equality makes one reference to the Istanbul Convention, and defines its ratification as one of the priorities for the Ministry of Justice.

In **Slovakia**, despite the lack of consensus on the adoption of Draft Act on domestic violence in 2015, some important laws have nevertheless been amended to ensure better protection for victims of domestic violence. For example, the definition of the offence of battering has been modified to introduce the principle of criminal liability for recidivism. The Act on social services has also been amended to introduce the term 'gender-based violence', enabling the provision of specialised social advice and emergency accommodation facilities for women at risk of such violence.

¹⁷⁶ Parliament of Hungary No. H/2390 On the ratification of the Istanbul Convention (*Az Isztambuli Egyezmény elfogadásáról*), 15 December 2014; Parliament of Hungary No. H/10286 On the ratification of the Istanbul Convention (*Az Isztambuli Egyezmény elfogadásáról*), 18 April 2016; Parliament of Hungary No. H/12907 On the ratification of the Istanbul Convention (*Az Isztambuli Egyezmény elfogadásáról*), 15 November 2016; Parliament of Hungary No. H/10836 On the ratification of the Istanbul Convention (*Az Isztambuli Egyezmény elfogadásáról*), 25 May 2016; Parliament of Hungary No. H/13863 [On the ratification of the Istanbul Convention](#) (*Az Isztambuli Egyezmény elfogadásáról*), 8 February 2017.

¹⁷⁷ Hungarian Spectrum, 2017, [It has taken three years but the Istanbul convention will soon be ratified](#).

¹⁷⁸ E.g. Gyurkó, S., 2017, [Why does Hungary not want to end violence against women?](#) (*Miért nem akar Magyarország véget vetni a nőkkel szembeni erőszaknak?*).

¹⁷⁹ The draft law is not publicly available.

¹⁸⁰ Index.hu, 2017, [Valentine's day gift from the Government: finally they are willing to ratify the Convention](#) (*Valentin-napi meglepetés a kormánytól: végre kihirdetnék az isztambuli egyezményt*).

¹⁸¹ 24.hu, 2017, [The Government will promulgate the Istanbul Convention on violence against women and domestic violence](#) (*Kihirdetheti a kormány a nők elleni és a családon belüli erőszak megelőzéséről szóló isztambuli egyezményt*).

¹⁸² Ireland, Department of Justice, Istanbul Convention Action Plan: Actions required for ratification of Istanbul Convention (as included in the Draft Second National Strategy on Domestic, Sexual and Gender-based Violence, available at: <http://www.justice.ie/en/JELR/ActionPlanIstanbulConNovember.pdf/Files/ActionPlanIstanbulConNovember.pdf>).

In the **UK**, the most comprehensive reference to the Convention can be found in the Welsh National Strategy on Violence against Women, Domestic Abuse and Sexual Violence for 2016-2021, which aimed at strengthening commitment to the principles of the Convention by setting out further directly relevant measures. In recent years, the UK has enacted significant new legislation, including specific offences of stalking, forced marriage, failure to protect victims from FGM and revenge pornography, as well as a new domestic abuse offence capturing coercive or controlling behaviour in an intimate or family relationship. However, further measures are needed to fully align national law with the obligations under the Convention.

In **Greece**, the National Action Plan for Gender Equality 2016-2020 mentions the creation of a Project Management Team in September 2015 to work towards immediate ratification of the Istanbul Convention. The team includes experts on gender equality issues, social scientists, specialist lawyers, etc., and is entrusted with examining the Convention's scope of application and proposing the necessary measures for its implementation. To implement the Convention, the Action Plan provides that a single law will be adopted to address violence against women in all aspects of the private and public sphere. The Project Management Team has completed its task and submitted its conclusions to the Ministry of Justice.

Finally, **Hungary** recently adopted a new Criminal Procedure Code, which will enter into force on 1 July 2018. Despite not being introduced in relation to the Istanbul Convention, the Code nonetheless contains amendments of relevance in the context of violence against women. It will strengthen the country's victim support mechanism, especially in relation to vulnerable victims, such as victims of sexual and domestic violence. None of the relevant policy documents refer to the Istanbul Convention.

In **Bulgaria**, **Latvia** and **Lithuania**, no steps have been identified with respect to aligning the national frameworks with the Convention.

2.3. Implementation of the Convention by the 14 EU Member States which ratified before 1 September 2017

The previous sections of this report presented an overview of legal and policy measures adopted in all 28 EU Member States to prevent and combat violence against women. This section, by contrast, focuses on the implementation of the Convention by those EU Member States which ratified it. At the time of this study (cut-off date for the national research was 1 September 2017), 14 Member States had lodged the relevant ratification instruments with the CoE: Belgium, Denmark, Spain, France, Italy, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Finland and Sweden. This section examines the legislative frameworks of these 14 Member States.

The Convention contains provisions on **substantive law**, which require incorporation into the domestic law of ratifying states. This section examines the **alignment of civil and criminal law** provisions of the 14 ratifying Member States with the respective substantive law requirements. It first illustrates implementation of the Article 4 requirement for State Parties to embody the principle of equality between men and women in appropriate legislation. It then focuses on implementation of Chapter V on substantive law, in particular the **civil law measures** available to women victims of violence, including the possibility of claiming **compensation**, as well as the **criminalisation** of certain forms of violent conduct.

The information for each Member State was gathered through a questionnaire. National experts for these Member States provided information on the steps taken by their states to align their legislative frameworks with the Convention's requirements, existing legislative measures to achieve equality between men and women, available civil remedies against perpetrators and against state failure to act in line with the Convention, and the possibility to claim compensation for damage sustained. Experts were also asked to explain whether the offences listed in Articles 33-40 of the Convention are criminalised under national law, by providing the relevant legal definition for each offence and assessing whether or not they reflect the main elements of the Convention provisions.

This section is not intended as an exhaustive review of the civil and criminal law regimes of these Member States as a separate study for each Member State would be required to thoroughly present and analyse alignment of the legislative framework with the Convention. Rather, it provides an overview of the Convention's requirements and the approach taken by Member States in their implementation. It also draws some conclusions on the alignment and compatibility of national legislation with the Convention's provisions, by calling attention to gaps (e.g. the absence of a criminal offence for forced marriage) and the potentially problematic or incomplete definitions identified in some Member States (notably for rape and sexual harassment).

2.3.1. Approach to alignment

The ratification of the Convention requires Member State to make the necessary adjustments to national legal and policy frameworks in order to align with the Convention's obligations. This study found that all 14 Member States had to amend their criminal legislation to align with the Convention, although the extent of these changes varied between Member States. The research showed that in countries such as **Denmark** and **Sweden**, very little change was needed to align the national legislations to the Convention,

with most of the Convention's obligations already implemented. In **Denmark**, only one amendment was necessary to comply with the provisions on forced marriage, forced abortion and forced sterilisation (Articles 37 and 39 of the Convention). Article 94 of the Danish Criminal Code was amended so that the limitation period for initiating any legal proceedings with regard to forced marriage is counted only from the day the victim reaches the age of 21. In **Sweden**, minor legislative changes were needed on child marriage and forced marriage, and the Criminal Code was amended accordingly in 2014¹⁸³.

Some Member States initiated changes before the ratification of the Convention (**Belgium, Spain, France, Portugal**) but completed their legislative and/or policy reforms afterwards. This was the case in **Belgium** for instance, which introduced some amendments to the legislation on sexual harassment before the ratification¹⁸⁴. Although most of the Convention's requirements are reflected in the legal framework, some aspects are not fully integrated and require further amendments, e.g. forced sterilisation, which is not itself a specific criminal offence but is prosecuted under bodily harm. In **Spain**, the Criminal Code was earlier modified to include the offence of domestic violence¹⁸⁵, while Organic Law 1/2015 also introduced necessary changes to the Criminal Code. Reforms included the introduction of gender violence as an aggravating factor and the introduction or reinforcement of certain crimes: harassment and stalking, forced marriage, unauthorised disclosure of images or sexting, protection of children against abuse. The National Pact on Violence Against Women¹⁸⁶ states that further amendments are needed to ensure that all types of violence against women are criminalised by the Spanish legislation, in line with the Istanbul Convention. As an initial step towards the implementation of the Convention, **France** adopted Law No. 2013-711 of 5 August 2013 with the purpose of aligning the French Criminal Law to six European instruments¹⁸⁷, a decision of the Court of Justice of the European Union (CJEU), a UN Resolution¹⁸⁸ and two international Conventions and their Protocols, including the Istanbul Convention¹⁸⁹. In particular, the offences of forced marriage and female genital mutilation were added to the Criminal Code. A new Article 40-5 in the Code of Criminal Procedure establishes the obligation for the public prosecutor to inform the victim when the perpetrator has escaped, where there is an identified danger or risk of harm to the victim. While **Portugal** had specific legislation in place addressing women victims of violence since the 1990's, amendment to the Criminal Code were necessary to fully comply with the Convention. These changes were made in 2015, with FGM, stalking and forced marriage criminalised¹⁹⁰.

Other Member States have given effect to the Istanbul Convention through national implementing acts (**Finland, Italy**) or by amending their legislation following ratification. In **Austria**, the amendments made to the Criminal Code in 2015 were of utmost importance in bringing the Austrian Criminal Code in line with the ratified Convention, in

¹⁸³Embassy of Sweden, 2014, [The entry into force of the Council of Europe 'Istanbul Convention', i.e. the Convention on preventing and combatting violence against women and domestic violence](#); Government Offices of Sweden, 2014, [Greater protection against forced marriage and child marriage](#).

¹⁸⁴ Act of 28 February 2014 completing the Act of 4 August 1996 on the well-being of workers; Act of 28 March 2014 amending the Judicial Code and Royal Decree of 10 April 2014 on the prevention of psychosocial risks at work.

¹⁸⁵ Organic Law 1/2004, of December 28, on Measures of Integral Protection against Gender Violence.

¹⁸⁶ Spain, 3 August 2017, [National Pact on Violence Against Women](#).

¹⁸⁷ Directive 2011/36/EU, Directive 2010/64/EU, Directive 2011/93/EU, Framework Decision 2009/299/JHA, Decision 2009/426/JHA and Framework Decision 2008/909/JHA.

¹⁸⁸ Security Council Resolution 1966, 2010, (on the establishment of the International Residual Mechanism for Criminal Tribunals with two branches), S/RES/1966(2010).

¹⁸⁹ Security Council Resolution 1966, 2010, (on the establishment of the International Residual Mechanism for Criminal Tribunals with two branches), S/RES/1966(2010).

¹⁹⁰ Decree Law 48/95 'Penal Code' (*Decreto-Lei n.º 48/95, de 15 de Março: Código Penal*), 15 March 1995, 45th and last amendment by Law 94/2017, 23 August 2017.

particular the introduction of new criminal offences, such as the violation of sexual integrity, or ignoring a person's will, which now constitute forms of sexual violence. **Finland**, which ratified the Convention in 2015, also amended its Criminal Code to comply with the Convention. Even though the legislative amendments appear to have been understood by the Government as sufficient to ensure alignment with the Istanbul Convention, the evaluation of the Action Plan to Reduce Violence Against Women 2010-2015 suggests otherwise. For instance, the characteristics of rape as an offence are focused on force, unlike the Convention, which states that it should be based on the absence of consent. The right to sexual self-determination is not sufficiently highlighted, nor is forced marriage criminalised, and the existing means of criminal law are not necessarily sufficient to ensure that forced marriages are identified as such and punished accordingly. FGM is not specifically criminalised but, rather, covered by aggravated assault. **Italy** ratified the Convention through the adoption of Law 119/2013, which modified several provisions of both its Criminal Code and Criminal Procedural Code¹⁹¹. The Italian Senate has called for an assessment of whether or not further changes should be introduced in the Criminal Code and the Criminal Procedural Code, with regard to a number of aspects of the Istanbul Convention¹⁹². **Malta** ratified the Convention on 29 July 2014, at which time it launched a legislative process to repeal the Domestic Violence Act (adopted in 2006) and recast it into a new 'Gender-Based Violence and Domestic Violence Act'. The new Act will amend a series of laws, such as the Criminal Code, the Police Act and the Civil Code, to ensure that the crimes covered by the Convention are adequately reflected in Maltese law, including appropriate remedies for victims. The changes to the Criminal Code relate mainly to changes in certain definitions (e.g. rape) and to stricter sentences for offences such as rape, unlawful sexual activity, violent indecent assault, grievous bodily harm, slight bodily harm, advertisement of sexual tourism and human trafficking. The Gender-Based Violence and Domestic Violence Act was presented in September 2016 and opened for public consultation, but has not yet been adopted by the House of Representatives. In **the Netherlands**, the Istanbul Convention was implemented through the adoption of a law¹⁹³ amending the Dutch Criminal Code by adding new provisions on FGM and abduction. It also added a provision explicitly recognising the Istanbul Convention in cases of extradition requests from abroad. In **Slovenia**, the legislation was amended after ratification of the Convention, focusing chiefly on the criminalisation of forms of violence such as forced marriage, forced sterilisation, stalking and FGM, all of which were previously criminalised under more general offences, such as prohibition of bodily harm¹⁹⁴. Experts agreed that modifications of the Criminal Code towards more explicit description of forms or elements of offences were necessary for better alignment with the Istanbul Convention¹⁹⁵.

¹⁹¹ Article 61(11)quiquies) of the Criminal Code introduced an aggravating circumstance for criminal offences against life and individual integrity, personal freedom, as well as for child abuse or family abuse, where committed in the presence of underage persons; Article 609ter of the Criminal Code introduced an aggravating circumstance for sexual violence committed against an underage person, a pregnant woman, or a person with whom the perpetrator had an affectionate or marital relationship; Article 612bis(2) of the Criminal Code introduced an aggravating circumstance in the case of stalking committed through informatic or telematic means, or committed by the spouse (even if legally separated or divorced), or by someone who had been in a relationship with the victim; Article 266(1) of the Criminal Procedural Code allows the use of wiretapping when investigating on stalking.

¹⁹² Senato.it, [Profiles of non-implementation of the Istanbul Convention](#) (*I profili di inattuazione della Convenzione di Istanbul*).

¹⁹³ Act of 14 October 2015 implementing the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Wet van 14 oktober 2015 tot uitvoering van het op 11 mei 2011 te Istanboel tot stand gekomen Verdrag van de Raad van Europa inzake het voorkomen en bestrijden van geweld tegen vrouwen en huiselijk geweld).

¹⁹⁴ Criminal Code (Kazenski zakonik), *Official Gazette of the Republic of Slovenia*, no.55/08, 28 May 2008.

¹⁹⁵ Association SOS helpline (Špela Veselič Katja Matko), 2016, [Analysis of conformity of national standards, legislation and public policies with the Council of Europe Convention on preventing and combating violence against women and domestic violence](#), pp.16-25.

To date, it seems that no amendments have been adopted to implement the Istanbul Convention in either **Poland** or **Romania**. Research shows that **Poland** has not undertaken steps to further align national legislation with the Convention which is thus not fully implemented. The 2005 Act on Prevention of Domestic Violence is the most specific act in this regard but its scope is limited as it covers solely domestic violence. The Polish Minister of Social Affairs has made a statement on the forthcoming renouncement of Poland's commitment to the Istanbul Convention, which it considers to be in opposition to traditional religious values and culture¹⁹⁶. Despite ratifying the Convention on 17 March 2016, **Romania** has undertaken no legal steps towards its implementation¹⁹⁷.

2.3.2. Alignment of legislative frameworks

The Convention sets out a comprehensive framework to end violence against women. It calls for integrated policies, comprising various measures to be implemented through multi-agency cooperation which, taken as a whole, offer a holistic response to the problem of violence against women¹⁹⁸. These include the requirement for State Parties to dedicate appropriate financial and human resources to prevention and combatting of violence against women, to conduct awareness raising campaigns and education so as to address the root causes of such violence as a form of gender inequality, and to protect and support victims. In addition to its provisions on policies, the Convention contains provisions on **substantive law** that require incorporation into the domestic law of State Parties. Upon ratification, Member States undertake to align their domestic law with the substantive and procedural law requirements of both civil and criminal law included in the Convention.

Two preliminary observations must be made here. Firstly, Member States' policies and legislation relating to gender-based violence vary considerably. While some have legislation that is gender-specific and explicitly aims to protect women victims¹⁹⁹ (e.g. **Spain** and **Portugal**), others have more general legislation to address the problem of domestic violence but focusing less on forms of gendered violence outside the domestic context²⁰⁰. In most Member States, the issue of violence against women is addressed through general acts, such as the civil or criminal codes. This differentiation of legal regimes is not necessarily problematic from a compliance perspective: while the Convention has been designed to protect and promote the rights of women, it does not require implementation through gender-specific legal provisions and can also be effectively implemented through gender-neutral national rules²⁰¹.

Secondly, states ratifying the Convention are bound by its requirements and must perform such requirements in good faith. However, states take different approaches in achieving conformity of their domestic legislation, whether before or after ratification²⁰². As outlined in Section 2.3.1, most Member States carried out legislative amendments before ratifying the Convention, but several have not yet adopted new legislation. Ratification does not

¹⁹⁶ European Parliament, Press Room, 2016, [Call on the Polish government to reconsider its intention to withdraw from the Istanbul Convention](#).

¹⁹⁷ Interview with Tudorina Mihai, gender activist, on 28 September 2017.

¹⁹⁸ Article 7 of the Istanbul Convention.

¹⁹⁹ For Spain: Organic Law 1/2004, of December 28, on Measures of Integral Protection against Gender Violence (*Ley Orgánica 1/2004, de 28 de diciembre, de Medidas de Protección Integral contra la Violencia de Género*), BOE núm. 313, de 29 de diciembre de 2004; for Portugal: Law 61/91 'Law of Protection of Women Victims of Violence' (*Lei n.º 61/91, de 13 de Agosto: Lei de Protecção às Mulheres Vítimas de Violência*), 13 August 1991.

²⁰⁰ Nousiainen, K. and Chinkin, C., 2015, [Legal implications of EU accession to the Istanbul Convention](#), p.86.

²⁰¹ Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence, para. 153.

²⁰² K. Nousiainen and C. Chinkin, '[Legal implications of EU accession to the Istanbul Convention](#)', December 2015, p. 89.

automatically mean that the requirements of the Convention are complied with but, rather, alignment of the legislative frameworks can be an ongoing process. The GREVIO monitoring process (see Section 2.4) is key in assessing and improving the implementation of the Convention by Member States. Through the country-by-country evaluation procedure, GREVIO monitors implementation and issues a report and conclusions on the situation in each state. On the basis of these evaluation reports, the Committee of the Parties may then adopt specific recommendations on measures to be adopted to implement the conclusions of GREVIO²⁰³.

2.3.2.1. Equality and non-discrimination

Article 4

1. Parties shall take the necessary legislative and other measures to promote and protect the right for everyone, particularly women, to live free from violence in both the public and the private sphere.
2. Parties condemn all forms of discrimination against women and take, without delay, the necessary legislative and other measures to prevent it, in particular by:
 - embodying in their national constitutions or other appropriate legislation the principle of equality between women and men and ensuring the practical realisation of this principle;
 - prohibiting discrimination against women, including through the use of sanctions, where appropriate;
 - abolishing laws and practices which discriminate against women.
3. The implementation of the provisions of this Convention by the Parties, in particular measures to protect the rights of victims, shall be secured without discrimination on any ground such as sex, gender, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, sexual orientation, gender identity, age, state of health, disability, marital status, migrant or refugee status, or other status.
4. Special measures that are necessary to prevent and protect women from gender based violence shall not be considered discrimination under the terms of this Convention.

It is evident from the preamble for the Convention that it considers violence against women to be 'a manifestation of historically unequal power relations between women and men, which have led to domination over, and discrimination against, women by men and to the prevention of the full advancement of women'. Article 4 of the Convention thus imposes on Member States the obligation to take legislative and other measures to condemn discrimination against women, inter alia by embodying in their constitutions or other appropriate legislation the **principle of equality between women and men**. As the mere proclamation of the equality principle does not suffice to ensure compliance, states are also required to ensure the practical implementation of the principle and to abolish any discriminatory legislation and practices.

The legislative frameworks of the Member States that ratified the Convention guaranteed the principle of equality between women and men even before ratification. This does not come as a surprise: the Treaty on European Union recalls that the EU is founded on the values of, among other things, human dignity, equality and respect for human rights, and that these values 'are common to the Member States in a society in which pluralism, non-

²⁰³ Council of Europe, [About Monitoring – The Istanbul Convention monitoring mechanisms: a two-pillar system](#).

discrimination [...] and equality between women and men prevail²⁰⁴. Equality between women and men is thus recognised as a fundamental, common value enshrined by both the EU and its Member States. In addition, the EU has consistently adopted legislation implementing the principle of equal treatment of men and women in the public sphere and there is now considerable EU acquis on this matter²⁰⁵.

The most relevant EU legislation in this respect is **Directive 2006/54/EC** on equal treatment of men and women in matters of **employment and occupation**²⁰⁶, which prohibits direct and indirect discrimination in access to:

- employment, including recruitment, promotion, and to vocational training;
- access to self-employment;
- membership of workers' or employers' organisations;
- working conditions, including pay; and
- occupational social security schemes.

The Directive recognises explicitly in its Preamble that **sexual harassment is 'contrary to the principle of equal treatment** between men and women and constitute discrimination on grounds of sex'.

Another key instrument is **Directive 2004/113/EC** on equal treatment of men and women in access to and supply of **goods and services**²⁰⁷ prohibiting direct and indirect discrimination as well as sexual harassment. It applies to goods and services in both the public and private sectors available to the public. It does not, however, apply to the area of private and family life.

Specific provisions proclaiming equality between men and women and/or the prohibition of discrimination on the ground of sex can be found in the constitutions of almost all Member States which ratified the Convention. The only exception is **Denmark**, where the principle is not embodied in the Constitution but comprehensive legislation exists, notably the Consolidation Act on equal treatment between women and men²⁰⁸. The constitutions of some Member States include not only a provision enshrining equality between women and men, but further clauses designed to give effect to that principle. For instance, the **Austrian** Constitution contains a provision on gender budgeting, requiring the Federation, the Länder and municipalities to strive for actual equality of women and men in budgetary management²⁰⁹. Similarly, the **Spanish** Constitution states the obligation of public authorities to promote conditions ensuring that equality of individuals and the groups to which they belong is real and effective²¹⁰. **Malta's** Constitution also embodies affirmative action, by giving state organs the power to 'take special measures aimed at accelerating de facto equality between men and women [...] insofar only as such measures, taking into

²⁰⁴ Article 2, Treaty on the European Union.

²⁰⁵ EU legislation includes Directive 2006/54 of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast); Directive 2004/113 of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services; Directive 2010/41 of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive of 11 December 1986.

²⁰⁶ Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast), *OJ L 204*, 26.7.2006.

²⁰⁷ [Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services](#), *OJ L 373/37*, 21.12.2004.

²⁰⁸ Law 1678/2013 Consolidation Act on equal treatment between women and men ([Bekendtgørelse af lov om ligestilling af kvinder og mænd](#)).

²⁰⁹ Article 13(3) of the Austrian Constitution ([Bundes-Verfassungsgesetz, B-VG](#)).

²¹⁰ Article 9 of the [Spanish Constitution](#) (*Constitución Española*).

account the social fabric of Malta, are shown to be reasonably justifiable in a democratic society'²¹¹.

The equality principle is then further and significantly developed in legislation. **Italy** presents an interesting example of the evolution of equality legislation²¹². Firstly, it had the 'guarantees-phase' (1945 – 1980s), which was characterised by the adoption of, inter alia, legislation introducing rights to divorce and to abortion. Secondly, the 'positive actions' phase (late 1980s–late 1990s) was marked with the adoption of legislation prohibiting direct and indirect discrimination based on sex in the work place and encouraging the presence of women in local public authorities. Finally, the gender mainstreaming phase (2000-present) saw the adoption of acts aimed at improving women's work-life balance and combatting any form of sex discrimination. **French** legislation has also evolved, starting with the criminalisation of rape, to establishing the principle of equal pay, and more recent legislation targeting violence against women, domestic violence and its impact on children, thereby creating a framework for the protection of victims and the sanction of violations, while also defining the offence of psychological violence. Legislation defining sexual harassment was adopted in 2012, while in 2014 France adopted the Act for real equality between women and men²¹³.

Over the years, and often well before the Istanbul Convention, all Member States have adopted acts to combat discrimination between men and women. These 'equality acts' or 'non-discrimination acts' prohibit direct and indirect discrimination in certain aspects of the public sphere, such as employment, education, vocational training and the provision of goods and services, and largely transpose EU non-discrimination Directives. However, their scope sometimes explicitly excludes the relationships between family members and other relationships within the sphere of private life²¹⁴.

While all Member States have a comprehensive legal framework to combat discrimination and promote equality, domestic legislation in most cases does not clearly understand **violence against women as a form of discrimination against women**. In other words, even though the Istanbul Convention defines violence against women as a manifestation of the historically unequal power relations between the two sex, the connection between combatting violence against women and enhancing gender equality is often absent in national law. **Spain**, in enacting specific legislation on violence against women, constitutes an exception and an example of good practice. Organic Law 1/2004 on measures of integral protection against gendered violence refers to gendered violence as violence exercised over women as a manifestation of discrimination, the situation of inequality and the power relations of men and women. In other Member States, the connection between violence against women and gender inequality is reflected in the inclusion of sexual harassment as a form of discrimination. In **Belgium**, the legal definition of discrimination includes any form of sexual harassment²¹⁵.

²¹¹ Article 45(11) of the [Constitution of Malta](#).

²¹² Vezzosi, V., 2015, *Filo D'Argento, L'evoluzione della normativa di genere in Italia ed in Europa*, pp.7-12.

²¹³ Act no. 2014-873 of 4 August 2014 for real equality between women and men ([Loi n° 2014-873 du 4 août 2014 pour l'égalité réelle entre les femmes et les hommes](#)).

²¹⁴ In Finland, the Act on equality between women and men aims to prevent gender-based discrimination and the promotion of equality of the sexes. However, its scope explicitly excludes relationships within the sphere of private life and family members. In 2014, a new Non-Discrimination Act was adopted, with an extended scope applying to both public and private activities. However, the Act does not apply to activities pertaining to private or family life or the practising of religion. Similarly, in Romania, the Law on equality between men and women provides a broad understanding of discrimination against women in all spheres of public life, such as work, education, health and culture. However, it does not apply to religion and cannot infringe on the private lives of people.

²¹⁵ [Act of 10 May 2007 to combat discrimination between women and men](#) (*Loi tendant à lutter contre la discrimination entre les femmes et les hommes/Wet ter bestrijding van discriminatie tussen vrouwen en mannen*).

Despite its absence in legislation, the connection between violence and discrimination is evident in policy documents in several Member States. For instance, **Italy's** Action plan against sexual and gender-based violence refers to the Convention's definition of violence against women as a phenomenon rooted and founded in inequality between men and women²¹⁶. In **Sweden**, the Action plan for combatting men's violence against women, violence and oppression in the name of honour and violence in same-sex relationships views men's violence against women as a question of gender equality and women's full enjoyment of the human rights to which every citizen is entitled. Sweden also states that action to combat the issue must proceed from a judicial, economic, health-related and finally, gender equality perspective²¹⁷.

In conclusion, all Member States have adopted comprehensive legislation to embody the principle of equality between women and men and prohibit discrimination based on sex. In this respect, their legislative frameworks are aligned with the Convention, with domestic legislation largely predating adoption of the Convention. As a result, the link between violence against women and creating gender equality is not sufficiently clear. In legislation, the link is mostly indirectly recognised in that sexual harassment is considered as sex discrimination. This does not hinder Member States' compliance with the substantive requirements of the Convention: its Article 4 simply calls upon them to embody the equality principle, prohibit discrimination and abolish discriminatory laws and practices. However, in addition to the substantive requirements it enshrines, the importance of the Convention lies in its symbolic meaning. The Convention clearly views equality between women and men as a key element in ending violence against women, and the link between strong equality legislation as a means to curtail such violence ought perhaps to be made more explicit in national legal and policy frameworks.

2.3.2.2. Substantive law – Civil lawsuits, remedies and compensation

Article 29 of the Convention obliges State Parties to provide victims with adequate civil remedies both against perpetrators and against state authorities that have failed in their obligation to take the necessary measures to prevent, investigate and punish acts of violence against women. Article 30 then requires the Parties to ensure that victims have the right to claim compensation from perpetrators and, subject to certain conditions, from the state. To implement these provisions, State Parties must take the necessary legislative or other measures to enable exercise of these rights by victims in their jurisdictions²¹⁸.

Remedies and compensation against perpetrators

The Explanatory Report to the Convention indicates that civil law remedies against the perpetrator should be available to victims of any of the forms of violence covered by the Convention. Accordingly, adequate civil law remedies should be understood as: 'civil law remedies which allow a civil law court to order a person to stop a particular conduct, refrain from a particular conduct in the future or to compel a person to take a particular action (injunctions)'²¹⁹. State Parties must also ensure that domestic legislation provides for **restraining and/or protection orders** for women victims of all forms of violence, so as

²¹⁶ Governo Italiano, 2015, *Extraordinary action plan against sexual and gender-based violence*, p. 4.

²¹⁷ Government Offices of Sweden, 2007, [Action plan for combating men's violence against women, violence and oppression in the name of honour and violence in same-sex relationships](#), p.4.

²¹⁸ Article 29(1) and (2) and Article 30(1) and (2) of the Convention.

²¹⁹ Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence, para.157.

to prevent the commission of further violence and to protect the victim²²⁰. Restraining and protection orders, depending on the legal regime of each state, may be based in civil law and thus constitute civil law remedies within the meaning of Article 29 of the Convention or it may fall within criminal proceedings. In addition, a **right to compensation** must be available to women victims of violence who have suffered harm as a result of any of the offences established by the Convention. In principle, it is the perpetrator who must be liable for restitution and compensation²²¹.

The legislative frameworks of the Member States who ratified the Convention are aligned with these requirements (see **Annex 1**). Remedies and compensation against perpetrators can be claimed based on the general provisions of national legislation. Such provisions often refer to victims of 'offences', 'minor offences', or to 'damage suffered' and are thus sufficiently broad to cover victims of all forms of violence covered by the Convention. In addition, depending on the legal framework of the Member State, remedies and compensation can be claimed based on a variety of acts: while in some Member States the relevant provisions are *stricto sensu* civil law provisions, inscribed in the civil code or family acts, in others, protection of victims, for instance through the issuing of protection or restraining orders, comes from the code of criminal procedure or the criminal code.

Remedies against the state – Article 29(2)

Article 5 of the Convention lists the State Parties' obligations in respect of the Convention. These obligations are twofold: Parties must first **refrain** from engaging in any act of violence against women and ensure that authorities, officials, agents, institutions and other actors which act on behalf of the State also comply with this requirement. At the same time, they also have a positive obligation to take all necessary measures to **exercise due diligence** to prevent, investigate, punish and provide reparation for acts of violence covered by the scope of this Convention that are committed by private actors. When State Parties fail in their duty, national legal frameworks must enable victims to exercise adequate civil remedies against the state. In essence, the Convention reiterates the legal principle of **liability of state authorities**. Where the State is held responsible, civil law needs to offer remedies to address State failure, such as actions for damages for cases of negligent and grossly negligent behaviour. The Explanatory Report to the Convention further emphasises that 'the extent of state authorities' civil liability remains governed by the internal law of the Parties which have the discretion to decide what kind of negligent behaviour is actionable'²²². Member States therefore benefit from significant discretion when designing their internal state liability rules.

In view of the complexity of state liability rules, no sufficient evidence could be found to effectively assess the compliance of the 14 Member States with Article 29(2) of the Convention. However, in view of the general wording of the Convention provision, it could be argued that the existence of legal avenues enabling victims to invoke the legal responsibility of the state would sufficiently implement that provision. Some Member States have established specific acts on liability of public bodies. For instance, the **Austrian** Act on liability of public bodies stipulates that an injured party may initiate legal proceedings against a state agency or institution to claim damages against the state's unlawful act or failure to act²²³. **Portugal** also has a framework regulating state civil liability for damages

²²⁰ Article 53(1) of the Convention; Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence, paras. 267-269.

²²¹ *Ibid.*, para.165.

²²² Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence, para.162.

²²³ First GREVIO report on Austria, December 2016, p. 35.

resulting from the exercise of legislative, judicial or administrative competences, whereby the state can be held responsible for the omission of legislative acts or for damage deriving from a malfunctioning of the judiciary²²⁴. In **Belgium, Denmark, Finland, the Netherlands, Romania and Sweden**, the Civil Code or Tort Liability Act can be invoked for errors and/or negligence of state actors, and victims may bring an ordinary civil suit against the state. In **Slovenia**, victims can claim damages through general civil proceedings, demand investigation on the conduct of the police officers in police procedures, or initiate administrative disputes due to violation(s) of human rights by state actors.

State compensation - Article 30(2)

Compensation for damages suffered as a result of the offences established by the Convention must - in principle - be claimed by the perpetrator. The Convention, however, establishes a **subsidiary** obligation for the state to compensate victims where the damage is not covered by other sources, such as the perpetrator, insurance or state-funded health and social provisions. While Article 30(1) requires states to ensure that compensation against perpetrators can be claimed by victims of any of the offences established by the Convention, compensation from the state shall be awarded to victims who have sustained 'serious bodily injury' or 'impairment of health'. Impairment of health is not limited to physical health, but also encompasses serious psychological damage caused by acts of psychological violence²²⁵. However, states are not precluded from establishing more generous compensation arrangements in their internal laws²²⁶.

States may also append **reservations** to Article 30(2). Among the Member States which ratified the Convention, **Malta, Poland, Romania and Slovenia** have issued such reservations. **Malta, Romania and Slovenia** reserved the right not to apply Article 30(2) and to instead apply its current legislation as far as state compensation is concerned. **Poland** reserved the right to apply the provision on state compensation solely for victims who are citizens of the Republic of Poland or the EU²²⁷. The practical consequence of the reservation is the exclusion of foreigners from the state compensation scheme, irrespective of the length of their stay in Poland or links with the country and the Polish community. This calls into question the respect of the obligation to implement the provisions of the Convention without discrimination on any ground, such as race, national or social origin, migrant or refugee status²²⁸.

Member States that ratified the Convention thus implemented the requirement for subsidiary state compensation in different ways, with their national frameworks variously aligned with the requirements of Article 30(2). It should be noted that compensation of crime victims is also a requirement under EU law: **Council Directive 2004/80/EC** requires all EU countries to have a **compensation scheme for victims of violent intentional crime** committed on their territories in case the victim is resident of another Member States²²⁹. However, the Directive does not define what is covered by a violent intentional crime. The CJEU clarified that Member States may not limit 'the scope of the

²²⁴ Law 67/2007 Regime of civil non-contractual liability of State and other public entities (*Lei 67/2007 de 31 de Dezembro: Regime da responsabilidade civil extracontratual do estado e demais entidades públicas*), 31 December 2007, amended by Law 31/2008, 17 July 2008.

²²⁵ Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence, para.166.

²²⁶ *Ibid.*

²²⁷ [Reservations and Declarations for Treaty No.210 - Council of Europe Convention on preventing and combating violence against women and domestic violence](#), Council of Europe website.

²²⁸ Article 4(3) of the Convention.

²²⁹ Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, OJ L 261, 6.8.2004.

compensation scheme for victims to only certain violent intentional crimes²³⁰. In the case, the Commission argued that the scope of violent intentional crimes in cross-border situations under the Directive should cover crimes such as rape, serious sexual assault, homicide, serious assault and battery and exclude crimes falling within the scope of special laws. Thus, a large number of violence against women should arguably be covered by this scheme in the Member States.

Only **Italian** legislation does not yet recognise the right of women victims of gender-based violence to obtain state compensation where the damage is not compensated by the perpetrator²³¹. In **Austria**, where obtaining compensation from the perpetrator is not possible, the Law on victims of crime offers state compensation for any unlawful, deliberate behaviour that led to bodily harm, health damage or death, with the crime itself carrying a prison term of six months, at a minimum. Psychological trauma resulting from crime is not eligible for compensation under this scheme, unless it has led to health impacts²³². Migrant women victims of domestic or sexual violence who, at the time of the offence, were unlawfully residing in Austria are excluded from the scheme and are also excluded if their country of origin offers a comparable compensation scheme. Victims waiving their right to claim compensation from the perpetrator during criminal proceedings are no longer eligible for state compensation²³³. This limitation is in line with the Convention, which perceives state compensation as subsidiary, and a remedy to be claimed only if compensation by perpetrators cannot be sought in practice.

In **Belgium**, the Commission for financial support to victims of violent acts provides financial support to victims of deliberate violent crimes. Financial assistance is granted to victims with serious physical and psychological injuries as a result of the violence. This includes all forms of violence against women, provided it is a deliberate act of violence committed in Belgium. Compensation from the Commission is only available if the victim cannot receive sufficient compensation for the damages through other means.

In **Portugal**, state compensation can be provided to victims of violent crimes and domestic violence²³⁴. Violent crimes are defined in national law as offences punishable with prison sentences of at least five years. According to this criterion, victims of physical assault, rape and sexual assault may qualify for state compensation. Victims of domestic violence crimes will be granted state compensation on the basis of two criteria: firstly, the offence must have occurred in the Portuguese territory; and secondly, the offence must have put the victim in a situation of severe economic deprivation.

Compensation Committees or Funds for victims of crime also exist in **Denmark** (*Erstatningsnævnet*), **France** (*Commission d'Indemnisation des Victimes d'Infractions*), the Netherlands (*Schadefonds Geweldsmisdrijven*) and **Sweden** (*the Crime Victim Compensation and Support Authority*). **Romania**²³⁵ and **Slovenia**²³⁶ also have legislation

²³⁰ CJEU, Judgment of the Court (Grand Chamber) of 11 October 2016, [European Commission v Italian Republic](#), Case C-601/14, ECLI:EU:C:2016:759, para 46.

²³¹ Senato.it, [Profiles of non-implementation of the Istanbul Convention](#) (*I profili di inattuazione della Convenzione di Istanbul*).

²³² First GREVIO report on Austria, December 2016, p. 37.

²³³ Austrian [Crime Victims Act](#), as amended on 2 November 2017.

²³⁴ Law 104/2009 Regime of granting of compensation to victims of violent crimes and domestic violence (*Lei n.º 104/2009, de 14 de Setembro: Regime da concessão de indemnização às vítimas de crimes violentos e de violência doméstica*), 14 September 2009, amended by Law 121/2015, 1 September 2015.

²³⁵ Law 211/2004 Measures to assure the protection of victims of crimes (*Legea 211/2004 privind unele măsuri pentru asigurarea protecției victimelor infracțiunilor*), Official Gazette 505/2004.

²³⁶ Crime Victim Compensation Act (*Zakon o odškodninah žrtvam kaznivih dejanj*), Official Gazette of the Republic of Slovenia no. 101/2005, 7 November 2005.

enabling victims of violent crime to seek compensation from state funds. Victims of gender-based violence in **Spain** are guaranteed several economic rights by the State²³⁷.

2.3.2.3. Substantive law – Criminal law

One of the most important elements in combatting violence against women is the effective prosecution and punishment of perpetrators. This is reflected in the text and obligations enshrined in the Convention. Chapter V requires State Parties to **criminalise several types of violence** against women behaviours (listed in Articles 33 to 40), and to punish these by effective, proportionate and dissuasive sanctions (Article 45), while taking into account certain aggravating circumstances (Article 46). This section will focus on Articles 33 to 40 of the Convention and will seek to determine whether or not the national legal framework has effectively criminalised the offences concerned.

For each of these offences, the report first clarifies the scope and substantive requirements of the relevant Convention provision, before briefly presenting the legal provisions of the 14 Member States giving effect to the Convention's requirements. It will also attempt to draw conclusions on the compatibility of national rules with the Convention.

Before analysing each of the offences individually, three considerations that are crucial in assessing compliance of national criminal law should be highlighted. Firstly, as outlined earlier, the Convention does not require implementation by gender-specific legal provisions. Its criminal law provisions can be implemented by gender-neutral rules²³⁸, as is indeed the case in all Member States. Secondly, the Convention includes an obligation for states to **criminalise certain conducts**, but does not require them to adopt specific offences. The practical consequence is that while some Member States amended their Criminal Codes to introduce new offences (e.g. stalking and FGM) reflecting the Convention's requirements, other states simply retained their more general crime definitions, as these already encompassed the conduct to be prohibited²³⁹. The fact that the latter group of states does not have specific offences for certain behaviours should not hinder compliance, e.g. stalking and FGM as understood by the Convention, for example, would be punishable under the scope of crimes such as harassment and bodily harm. However, the lack of specific offence may impact on the effectiveness of the prosecution, prevention and monitoring of those forms of violence. Indeed, in the absence of specific criminal offences, criminal statistics is usually not available on the violence. The violence is not visible to policy makers and thus results in the lack of political attention on those forms of violence, leading to the absence of or insufficient policy measures in terms of prevention and prosecution of those violence. Finally, the Convention gives states the option to provide for non-criminal sanctions in relation to certain offences, notably psychological violence, stalking and sexual harassment.

Psychological violence

Article 33

Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of seriously impairing a person's psychological integrity through coercion or threats is criminalised.

²³⁷ Law 35/1995 of 11 December on aid and assistance to victims of violent crime and against sexual freedom recognises the right to, among other things, a monthly economic compensation from the state where the violence has effected a temporary or permanent disability in the victim that impedes her work, economic compensation to the spouse, sons and/or parents of the victim, and temporary economic aid. For crimes against sexual liberty, a stipulated economic aid to cover the therapeutic treatment chosen by the victims may also be provided.

²³⁸ There are, however, offences which by nature cannot be gender-neutral, notably FGM and forced abortion.

²³⁹ Nousiainen, K. and Chinkin, C., 2015, *Legal implications of EU accession to the Istanbul Convention*, p.89.

The offence of psychological violence is set out in Article 33 of the Convention. The act to be criminalised by State Parties is limited to 'intentional conduct' which 'seriously impairs a person's psychological integrity'. Perpetrators must use '**coercion** or **threats**' for their behaviour to fall under this offence. The Explanatory Report to the Convention further explains that psychological violence refers to a course of conduct amounting to an abusive pattern of behaviour occurring over time rather than a single event. The notions of 'intentional' and 'serious impairment of psychological integrity' are not defined in the Convention and are left to the State Parties to interpret²⁴⁰.

Psychological violence is not criminalised through a specific offence in the domestic orders of the Member States which ratified the Convention. However, the Criminal Codes of all 14 Member States contain offences that are, at least in theory, sufficiently broad to cover the conduct of psychological violence against women. Depending on the Member State, the conduct may be sanctioned under the offences of 'coercion', 'serious coercion', 'threat', 'serious threat', 'menace', 'causing others fear that violence will be used against them', 'insult', 'blackmail', and 'violent conduct'.

These offences are not gender-specific, nor specifically designed to address psychological violence in a domestic/intimate context. They are often constructed around fears for life, health or property and these are the elements which could 'seriously impair a person's psychological integrity', as stipulated in the Convention. Even in the absence of a specific psychological violence offence, the requirement to criminalise that conduct might be fulfilled, especially given the latitude given to State Parties to define the types of conduct that would seriously impair psychological integrity.

In its evaluation report on Austria, **GREVIO** indicated that while the Criminal Code offences of coercion and threat would apply, they are not fully aligned with the understanding of psychological violence under the Convention. National law requires the use of force or threat of serious violence, whilst the Convention understands the offence differently, as 'employed at early stages of the cycle of violence and abuse or throughout in order to **control the victim**', without it necessarily accompanying threats of serious violence. GREVIO invited the Austrian authorities to introduce a specific criminal offence of psychological violence in order to fully encompass the conduct covered by the Convention, stating that the women who are 'controlled, intimidated and threatened by their partners day after day would be more likely to report this behaviour if they knew that what they are experiencing is a crime'²⁴¹.

In Member States where specific domestic violence offences exist, the element of harming the victim's psychological integrity is reflected more clearly in national law. Through their domestic violence offences, **Portugal** and **Spain** criminalise the repetitive exercise of psychological abuse against a spouse or ex-spouse, a person with whom the perpetrator maintains or has maintained an equivalent relationship, even without cohabitation, etc.²⁴². **Polish** legislation includes offences 'against the family and guardianship', which specifically sanction the conduct of mentally mistreating a person in a close relationship with the perpetrator²⁴³. **Sweden's** Criminal Code provides that if sexual acts or acts against the life, health, liberty and peace of a person are committed against a person who has or had a close relationship with the perpetrator, the perpetrator shall be sentenced for 'gross

²⁴⁰ Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence, para.179-180.

²⁴¹ GREVIO, 2017, [Baseline Evaluation Report Austria](#), p.40.

²⁴² Article 152 of the Portuguese Criminal Code; Article 173(2) of the Spanish Criminal Code.

²⁴³ Article 207 of the Polish Criminal Code.

violation of integrity' if the acts constituted a repeated violation of the victim's integrity and resulted in severe damage to her/his self-confidence²⁴⁴.

Stalking

Article 34

Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of repeatedly engaging in threatening conduct directed at another person, causing her or him to fear for her or his safety, is criminalised.

The Convention understands stalking to be **repeated behaviour of a threatening nature** against an identified person and which has the consequence of instilling in this person a sense of fear²⁴⁵. Examples of such threatening behaviour include repeatedly following a person, appearing at the person's home, work, school, sports or other facilities, or engaging in unwanted communication through any available communication means. To qualify as 'stalking', the threatening behaviour must be carried out with the intention of causing a sense of fear in the victim. Similarly to psychological violence, instilling fear requires a pattern of behaviour rather than an isolated incident.

Stalking is criminalised in almost all of the Member States which ratified the Convention. **Spain**²⁴⁶, **Italy**²⁴⁷, **Malta**²⁴⁸, **Austria**²⁴⁹, **Poland**²⁵⁰, **Portugal**²⁵¹, **Slovenia**²⁵² and **Finland**²⁵³ all have a specific stalking offence. For Spain, Poland, Portugal and Slovenia, this is a new offence introduced following the adoption or ratification of the Convention. In **Sweden**, there is specific legislation (the Non-Contact Order Act) which aims to prevent crimes and enhance the security of individuals who are subject to stalking and harassment²⁵⁴.

In other Member States (**Belgium**²⁵⁵, **France**²⁵⁶, the **Netherlands**²⁵⁷, **Romania**²⁵⁸) stalking falls under the **conduct of harassment**.

Even though the definitions of stalking/harassment vary across Member States, common trends can be identified. The main elements of the offence in national law is the existence of 'repeated' or 'persistent' behaviours, of 'pursuing or harassing individuals' in a manner that 'causes fear or anxiety' or 'unreasonably affects the individuals in their way of life in an adverse way'. The legal framework of these states is therefore largely aligned with the Convention's requirements.

²⁴⁴ Chapter 4, Section 4a of the Swedish Criminal Code.

²⁴⁵ Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence, para.182.

²⁴⁶ Article 172ter of the Polish Criminal Code.

²⁴⁷ Article 612bis of the Italian Criminal Code.

²⁴⁸ Article 251AA of the Maltese Criminal Code.

²⁴⁹ Austrian Criminal Code, § 107a StGB.

²⁵⁰ Article 190A of the Polish Criminal Code.

²⁵¹ Article 154A of the Portuguese Criminal Code.

²⁵² Article 134a of the Slovenian Criminal Code.

²⁵³ Section 7(a), Chapter 25 of the Finnish Criminal Code.

²⁵⁴ GREVIO, 2017, *Report submitted by Sweden pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Baseline Report)*, GREVIO/Inf(2017)9, available at: <https://rm.coe.int/state-report-on-sweden/168073fff6>, p.53.

²⁵⁵ Article 442bis of the Belgian Criminal Code.

²⁵⁶ Articles 222-33-2 to 222-33-2-2 of the French Criminal Code.

²⁵⁷ Article 285b of the Dutch Criminal Code.

²⁵⁸ Article 208(1) of the Romanian Criminal Code.

Denmark's government made use of Article 78(3) of the Convention and made a reservation on the right to provide for non-criminal sanctions for stalking²⁵⁹. Stalking is not criminalised in itself and, in order to be punished for this behaviour, the perpetrator must have previously been issued with a restraining order, restricting his contact with the victim. Violation of the restraining order is thus the formal charge for which the perpetrator shall be punished.

Physical violence

Article 35

Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of committing acts of physical violence against another person is criminalised.

The Convention provision requiring criminalisation of physical violence is clear and does not give rise to interpretation challenges. The Convention clarifies that the conduct must be intentional. Physical violence, according to the Explanatory Report to the Convention, refers to 'bodily harm suffered as a result of the application of immediate and unlawful physical force'²⁶⁰. Cases in which bodily harm results in the death of the victim are also encompassed in this definition²⁶¹.

The legislative framework of all Member States is aligned with this requirement and pre-dates the adoption of the Convention. The Criminal Codes of all Member States contain general, gender-neutral provisions sanctioning physical violence. This type of violence is normally defined through various offences and the sanctioning regime varies according to their severity. Murder, manslaughter, grievous bodily harm, light bodily harm, bodily injury with severe permanent consequences, qualified bodily injury and physical assault are offences commonly found in national criminal law, and are sufficiently broad to encompass the Convention's requirement.

Sexual violence, including rape

Article 36

Parties shall take the necessary legislative or other measures to ensure that the following intentional conducts are criminalised:

- engaging in non-consensual vaginal, anal or oral penetration of a sexual nature of the body of another person with any bodily part or object;
- engaging in other non-consensual acts of a sexual nature with a person;
- causing another person to engage in non-consensual acts of a sexual nature with a third person.

Consent must be given voluntarily as the result of the person's free will assessed in the context of the surrounding circumstances.

Parties shall take the necessary legislative or other measures to ensure that the provisions of paragraph 1 also apply to acts committed against former or current spouses or partners as recognised by internal law.

²⁵⁹ Council of Europe Convention on preventing and combating violence against women and domestic violence, [Reservations and Declarations](#) for Treaty No. 210.

²⁶⁰ Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence, para.188.

²⁶¹ *Ibid.*

Article 36 calls upon State Parties to criminalise **rape** and **sexual violence**. The provision on rape and sexual violence is more detailed and specific than those for other offences. It provides that **vaginal, anal and oral** penetration, caused by either a **body part or object** must be sanctioned. It also requires the criminalisation of all non-consensual acts of a sexual nature with a person, and specifies that consent must be voluntary and free. State Parties are free to decide on the specific wording of their national legislation, together with the factors that preclude 'freely given consent', as the Convention merely requires that the existence of free consent is assessed in the context of the surrounding circumstances of each case²⁶².

The act of **causing a person to engage in sexual activity** with a third person must also be punishable. Finally, paragraph (3) of Article 36 calls for states to ensure that there are no exceptions to the criminalisation of the above acts when committed against a current or former spouse or partner²⁶³. Acts of sexual violence may also occur in a domestic, intimate context.

Legislation within the 14 Member States largely criminalise rape, sexual violence or sexual assault under specific offences. However, due to the detailed provision of the Convention, not all legislation fully align with Article 36. Some potentially problematic instances are presented below:

The GREVIO monitoring report notes that **Austria** shows a slight difference 'between sexual acts committed against the will of the victim (Austrian legislation), and non-consensual sexual acts (the Convention)'. For the act to be punishable, Austrian legislation requires the victim to express her refusal verbally or otherwise. Therefore, prosecution may not be allowed in cases where the victim remains passive or does not consent, but fails to express her opposition. Criminal legislation that would cover intentionally causing another person to engage in non-consensual acts of a sexual nature with a third person (Article 36, paragraph 1c) is not currently covered by national legislation on sexual violence. GREVIO invited Austrian authorities to introduce criminal legislation to cover this conduct²⁶⁴.

In **Belgium** and **Romania**, the act of 'causing another person to engage in non-consensual acts of a sexual nature with a third person' (Article 36, paragraph 1c) is not reflected in the Criminal Code as such and would fall under the offence of prostitution or debauchery.

In **Finland**, the definition of rape is not based on the absence of consent but, rather, on the presence or threat of violence, or the inability of the victim to defend himself or herself, or to formulate or express his or her will. The term 'sexual intercourse' refers to the sexual penetration of the body of another by a sex organ or directed at a sex organ or anal passage, or to the insertion of the sex organ of another into the body of the offender²⁶⁵. It is not, therefore, fully in line with the definition of the Convention.

In **Malta**, the definition of rape is rather anachronistic. Rape is defined as the conduct 'by violence' of having 'carnal knowledge of a person of either sex'²⁶⁶. The draft Gender-Based Violence and Domestic Violence Act²⁶⁷ proposes the replacement of this Article in the criminal code with a new provision, which will better reflect understandings of what constitutes rape under the Convention. If adopted, the new definition will replace the notion

²⁶² *Ibid.*, para.193.

²⁶³ *Ibid.*, para.194.

²⁶⁴ First GREVIO report on Austria, December 2016, p.40.

²⁶⁵ Section 1, Chapter 20 of the Finnish Criminal Code.

²⁶⁶ Article 198 of the Maltese Criminal Code.

of violence with the notion of consent and will specify that carnal connection includes 'vaginal, anal or oral penetration of a sexual nature of the body of another person with any bodily part and/or any object'.

In **Slovenia**, criminalisation of rape and sexual assault is not entirely in line with the definition in the Istanbul Convention. The Criminal Code does not specifically address penetration with other objects but is limited to penetration with bodily parts²⁶⁸. If injuries occur, this could be prosecuted under bodily harm. The use of force is the main element referenced in the Criminal Code, and lack of consent is omitted.

Forced marriage

Article 37

Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of forcing an adult or a child to enter into a marriage is criminalised.

Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of luring an adult or a child to the territory of a Party or State other than the one she or he resides in with the purpose of forcing this adult or child to enter into a marriage is criminalised.

According to the Convention's provision on forced marriage, there are **two** types of conduct that should be criminalised: 1) the conduct of **forcing a person to enter into a marriage**; and 2) the conduct of **luring a person abroad** with the purpose of forcing that person to enter into marriage. This wording was deemed necessary in view of the fact that many victims of forced marriage are taken to another country (often their country of origin or that of their ancestors) and forced to marry a person of that country²⁶⁹. If criminalisation were to be limited to forced marriages occurring in the territory of a State Party, it would be insufficient to combat the forced marriage phenomenon.

A specific forced marriage offence exists in the legislation of **Belgium**²⁷⁰, **Denmark**²⁷¹, **Spain**²⁷², **France**²⁷³, **Malta**²⁷⁴, **Austria**²⁷⁵, **Portugal**²⁷⁶, **Slovenia**²⁷⁷ and **Sweden**²⁷⁸. The respective national provisions, although worded differently from Article 37 of the Convention, largely comply with its requirements. In Belgium, the Criminal Code does not specify that the intentional conduct of luring an adult or a child to the territory of a Party or State other than the one she or he resides in with the purpose of forcing this adult or child to enter into a marriage is criminalised. However, the definition of forced marriage (*'whoever, by violence or threats, has forced someone to enter into a marriage or into legal cohabitation'*) is broad enough to cover such a scenario.

²⁶⁷ [Gender Based Violence and Domestic Violence Bill](#) (not yet adopted).

²⁶⁸ Article 170 of the Slovenian Criminal Code.

²⁶⁹ Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence, para.195.

²⁷⁰ Articles 391sexies and 391septies of the Belgian Criminal Code.

²⁷¹ Article 260(2) of the Danish Criminal Code.

²⁷² Article 172bis of the Spanish Criminal Code.

²⁷³ Article 222-14-4 of the French Criminal Code.

²⁷⁴ Article 251G of the Maltese Criminal Code.

²⁷⁵ Austrian Criminal Code, §106a StGB.

²⁷⁶ Article 154B of the Portuguese Criminal Code.

²⁷⁷ Article 132a. of the Slovenian Criminal Code.

²⁷⁸ Chapter 4 ch. 4c § Brottsbalken (BRB).

Finland does not have a forced marriage offence. Nevertheless, the conduct of forcing a person to enter into a marriage would, in most cases, fulfil the criteria for the offence of coercion, or some physical violence offences. Forced marriage carried out by luring a person abroad is not specifically punishable and this may lead to inconsistency with the Convention. However, Section 11, Chapter 1 of the Criminal Code provides that Finnish law applies to forced marriage carried out abroad, where such offences are not punishable under the law of the country in question, and where the offence is carried out by a Finnish citizen or a permanent resident of Finland. The act is punishable under the offences of assault, aggravated assault or coercion. In effect, if the perpetrator has carried out an act corresponding to these three offences in a foreign state, he or she can be prosecuted for these offences in Finland. In **the Netherlands**, forced marriage falls under the scope of the offence of coercion but the definition of coercion might not encompass the act of 'luring a person abroad'.

Forced marriage is not criminalised in **Poland, Romania or Italy**. The Italian Parliament is currently discussing the introduction of three new articles in its Criminal Law (Article 605bis, ter and quater) which would criminalise forced marriage, compelled trips to conclude a marriage, and child marriage, respectively²⁷⁹.

Female Genital Mutilation (FGM)

Article 38

Parties shall take the necessary legislative or other measures to ensure that the following intentional conducts are criminalised:

- excising, infibulating or performing any other mutilation to the whole or any part of a woman's labia majora, labia minora or clitoris;
- coercing or procuring a woman to undergo any of the acts listed in point a;
- inciting, coercing or procuring a girl to undergo any of the acts listed in point a.

As the victims of FGM are, by definition, women or girls, FGM is one of the offences which break with the Convention's principle of gender neutrality in its criminal law provisions²⁸⁰. Article 38 of the Convention requires the criminalisation of the traditional practice of cutting away certain parts of the female genitalia, as performed by some communities on their female members, a practice which causes lifelong and irreparable damage to the victims and is normally performed without the victim's consent²⁸¹.

The practice is, in principle, criminalised in all Member States that ratified the Convention. A **specific FGM offence** can be found in the legislation of **Austria**²⁸², **Belgium**²⁸³, **Denmark**²⁸⁴, **Spain**²⁸⁵, **France**²⁸⁶, **Italy**²⁸⁷, **Malta**²⁸⁸, **Portugal**²⁸⁹ and **Sweden**²⁹⁰. In the

²⁷⁹ [Draft Law introducing in the Criminal Code the offences of forced marriage, compelled trips to conclude a marriage, and child marriage \(Introduzione nel codice penale dei reati di costrizione al matrimonio, induzione al viaggio finalizzato al matrimonio e costrizione al matrimonio di persona minorenne\)](#).

²⁸⁰ Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence, para.198.

²⁸¹ *Ibid.*

²⁸² Article 90 of the Austrian Criminal Code.

²⁸³ Article 409 of the Belgian Criminal Code.

²⁸⁴ Article 245a of the Danish Criminal Code.

²⁸⁵ Article 149 and 151 of the Spanish Criminal Code.

remaining Member States, FGM is not subject to a specific offence but is encompassed by general offences, such as bodily harm. In other words, FGM is criminalised as a form of **bodily harm** (**Poland**²⁹¹, **Slovenia**²⁹², **Romania**²⁹³). In **Finland**, for example, FGM falls under the offence of aggravated assault. Finnish legislation also provides that FGM is also punishable if carried out abroad in a state where it is not a crime²⁹⁴, meaning that the perpetrator can be prosecuted for aggravated assault in Finland. In the **Netherlands**, FGM would fall under the offence of serious mistreatment²⁹⁵.

Forced abortion and forced sterilisation

Article 39

Parties shall take the necessary legislative or other measures to ensure that the following intentional conducts are criminalised:

- performing an abortion on a woman without her prior and informed consent;
- performing surgery which has the purpose or effect of terminating a woman's capacity to naturally reproduce without her prior and informed consent or understanding of the procedure.

By its nature, the offence of forced abortion can only be perpetrated against women and the Convention's principle of gender neutrality is thus not applicable here. Forced abortion relates to the intentional act of terminating a pregnancy without a woman's prior and informed consent. Similarly, forced sterilisation refers to any intentional procedure which, without the woman's consent, results in the loss of the capacity to reproduce naturally²⁹⁶. State Parties are called upon to criminalise both behaviours.

Member States' legislation is in line with the Convention's requirement. **Abortion is heavily regulated** in Europe and some Member States have particularly strict rules. Abortion without the woman's consent is unlawful in all Member States, with the respective provisions being inscribed in the Criminal Code, Health Law and Abortion Acts, depending on the Member State. In **Malta**, for instance, abortion is banned in all cases, with the Criminal Code stating that whoever causes the miscarriage of a woman by any means is liable to imprisonment, whether or not the woman consented²⁹⁷. Such prohibition of abortion is far broader than that required under the Convention (only forced abortion shall be criminalised in accordance with Article 39(a) of the Convention). However, given that they prohibit forced abortion, they must be deemed compliant with the Convention, and any debate on the compatibility of such provisions with fundamental rights falls outside the scope of this study.

²⁸⁶ Articles 222-9 and 222-10 of the French Criminal Code.

²⁸⁷ Article 583bis of the Italian Criminal Code.

²⁸⁸ Article 251E of the Maltese Criminal Code.

²⁸⁹ Article 144A of the Portuguese Criminal Code.

²⁹⁰ A special act prohibiting FGM was passed in 1982 (lagen [1982:316] *med förbud mot kvinnlig könsstympning*) and has gradually become stricter.

²⁹¹ Articles 156, 157 and 160 of the Polish Criminal Code, referring to crimes of grievous bodily injury, bodily injury and impairment to health, and exposure to the danger of loss of life.

²⁹² Articles 123–124 of the Slovenian Criminal Code.

²⁹³ Article 194 of the Romanian Criminal Code.

²⁹⁴ Section 11, Chapter 1 of the Finnish Criminal Code.

²⁹⁵ Article 303 of the Dutch Criminal Code

²⁹⁶ Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence, para.203-205.

²⁹⁷ Article 241 of the Maltese Criminal Code.

Forced sterilisation is also prohibited in all 14 Member States. It is a Criminal Code offence under **Maltese** law²⁹⁸. **Austrian** legislation allows sterilisations carried out by a physician only with the consent of the person concerned²⁹⁹. In the absence of consent, sterilisation would be unlawful.

As sterilisation is an interference with the human body with lasting consequences, even if it is not specifically incriminated, it may qualify for the offence of serious bodily injury according to the Criminal Code. It is likely that national provisions on assault, aggravated assault, bodily injury and other offences against life and person are sufficiently broad to allow criminalisation of such conduct in the Member States. For instance, in **Belgium**, cases of forced sterilisation can be prosecuted under the Criminal Code provisions on the offence of 'bodily harm'. National courts have considered this conduct to be a violation of the right to physical integrity³⁰⁰.

Sexual harassment

Article 40

Parties shall take the necessary legislative or other measures to ensure that any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment, is subject to criminal or other legal sanction.

The last offence to be criminalised pursuant to the Convention is sexual harassment. This encompasses any form of conduct of a sexual nature (whether verbal, non-verbal or physical) with the purpose or effect of violating a person's dignity. For this offence, State Parties **may provide non-criminal sanctions**, and may also choose the types of consequences faced by the perpetrator in light of such offences.

The Explanatory Report gives useful indications of the types of conduct that ought to be covered: '[V]erbal conduct refers to words or sounds expressed or communicated by the perpetrator, such as jokes, questions, remarks, and may be expressed orally or in writing. Non-verbal conduct, on the other hand, covers any expressions or communication on the part of the perpetrator that do not involve words or sounds, for example facial expressions, hand movements or symbols. Physical conduct refers to any sexual behaviour of the perpetrator and may include situations involving contact with the body of the victim'³⁰¹.

All of these forms of behaviour must be of a sexual nature and unwanted on the part of the victim. Behaviours that could be regarded as violating the victim's dignity include conduct which creates an intimidating, hostile, degrading, humiliating or offensive environment. The Explanatory Report indicates that, typically, this conduct is carried out in the context of abuse of power, with the victim and perpetrator knowing each other and often being in a relationship characterised by differences in hierarchy and power. It specifies, however, that the scope of application of sexual harassment under the Convention is not limited to the field of employment³⁰².

²⁹⁸ Article 251F of the Maltese Criminal Code.

²⁹⁹ Consent of the injured, § 90 (2) *StGB*.

³⁰⁰ [Cassation Court decision of 14 December 2001](#); Brussels Court of Appeal 24 December 1999.

³⁰¹ Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence, para.208.

³⁰² *Ibid.*, para.208 and 209.

As part of their obligations under EU law, all the Member States must criminalise sexual harassment at least in the context of **employment and access to goods and services**. Under **Directive 2006/54/EC** equal treatment of men and women in employment and occupational social security³⁰³ sexual harassment is prohibited and constitutes a discrimination on the ground of sex. It defines it as 'any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment' (Article 2(d)). The definition of sexual harassment reflects almost literally the wording of the Convention's provision. Member States must have established effective, proportionate and dissuasive penalties. **Directive 2004/113/EC** on equal treatment of men and women in access to and supply of goods and services³⁰⁴ also prohibits sexual harassment in access to public and private sectors goods and services available to the public. However, the Convention requires State Parties to address the conduct of sexual harassment beyond the employment and access to goods and services context. The prohibition of sexual harassment should apply in all areas including the private sphere.

The legal approach taken by the 14 Member States towards sexual harassment varies. **Belgium** criminalises sexual harassment at work, while sexual harassment outside of employment is punishable under the Act to combat discrimination between women and men. The definition of sexual harassment is closely aligned with the Convention, since Belgian law refers to conduct with sexual connotation expressed physically, verbally or non-verbally which has the purpose or effect of violating the dignity of a person. A similar understanding of sexual harassment can be found in the **Danish** Consolidation Act on equal treatment of men and women as regards access to employment, as well as the **Polish** Labour Code. However, the conduct is only criminalised in cases where the person's superior has committed the offence. **Malta** also considers sexual harassment a discrimination offence under the Equality for Men and Women Act and, in the context of employment, the Employment and Industrial Relations Act.

Other Member States sanction sexual harassment as a Criminal Code offence (either as a separate offence or as part of the more general offence of harassment), which could also apply to the private sphere. This is the case in **Spain**³⁰⁵, **Italy**³⁰⁶, **Austria**³⁰⁷, **Portugal**³⁰⁸, **Romania**³⁰⁹, **Slovenia**³¹⁰ **Finland**³¹¹ and **Sweden**³¹². Sexual harassment outside the workplace is not criminalised as a separate offence in the **Netherlands** and is only prosecuted in criminal law if it fits other criminal statutes on sexual violence.

Desk research carried out for this study identified instances where national law may not be fully aligned with the Convention's scope, some of which are presented below.

³⁰³ Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast), OJ L 204, 26.7.2006.

³⁰⁴ [Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services](#), OJ L 373/37, 21.12.2004.

³⁰⁵ Article 184 of the Spanish Criminal Code.

³⁰⁶ Article 660 of the Italian Criminal Code.

³⁰⁷ Sexual harassment and public sexual acts, § 218 StGB.

³⁰⁸ Article 170 of the Portuguese Criminal Code.

³⁰⁹ Article 223 of the Romanian Criminal Code.

³¹⁰ Article 197 of the Slovenian Criminal Code.

³¹¹ Section 5a, Chapter 20 of the Finnish Criminal Code.

³¹² Criminal Code, sexual molestation (Chapter 6, Section 10). Sexual harassment could also be punishable under the Criminal Code provisions on molestation (Chapter 4, Section 7), defamation (Chapter 5, Section 1) and insulting behaviour (Chapter 5, Section 3).

In **Finland**, sexual harassment is an offence in Section 5a, Chapter 20 of the Criminal Code. The definition is not in line with the Istanbul Convention, as it is limited to harassment carried out by touching, with verbal and non-verbal harassment excluded from the scope of the offence. However other offences could be relied upon to cover these types of conduct, such as 'harassing communications', 'defamation' or 'aggravating defamation'.

In **Romania**, sexual harassment is criminalised as repeatedly soliciting sexual favours as part of an employment relationship or similar relationship, if by so doing the victim was intimidated or placed in a humiliating situation. This definition is not fully consistent with the Istanbul convention, as it does not explicitly refer to forms of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person.

2.3.3. Policy measures

As part of their obligations under the Convention, State Parties must adopt effective, comprehensive and coordinated policies encompassing measures to prevent and combat all forms of violence covered by the Convention. They must also allocate the necessary funding and human resources to achieve this³¹³.

This section presents the results of the national research, which examined how the 14 Member States which ratified the Convention have adopted - or are in the process of adopting - such policy measures. Those policy measures take various forms and primarily consist of awareness raising campaigns, interventions with perpetrators, or even educational programmes.

Awareness raising and education

Article 13

1. Parties shall promote or conduct, on a regular basis and at all levels, awareness raising campaigns or programmes, including in cooperation with national human rights institutions and equality bodies, civil society and NGOs, especially women's organisations, where appropriate, to increase awareness and understanding among the general public of the different manifestations of all forms of violence covered by the scope of this Convention, their consequences for children, and the need to prevent such violence.
2. Parties shall ensure the wide dissemination among the general public of information on measures available to prevent acts of violence covered by the scope of this Convention.

Article 14

1. Parties shall take, where appropriate, the necessary steps to include teaching material on issues such as equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships, gender-based violence against women and the right to personal integrity, adapted to the evolving capacity of learners, in formal curricula and at all levels of education.

³¹³ Articles 7 and 8 of the Istanbul Convention.

2. Parties shall take the necessary steps to promote the principles referred to in paragraph 1 in informal educational facilities, as well as in sports, cultural and leisure facilities and the media.

As per Articles 13 and 14 of the Convention, State Parties to the Convention must contribute to increasing awareness and understanding of violence against women, as well as taking the necessary steps to teach and promote equality principles. For that reason, awareness raising campaigns and educational programmes constitute an important aspect of national policy in the area. Awareness raising as a type of policy action is frequently used by Member States as a tool to prevent violence.

This research found that all 14 Member States engaged in awareness raising campaigns, often even before ratifying the Convention. The type of campaigns or awareness tools used (e.g. flyers, conferences, seminar, training and educational material, television campaigns), as well as the targeted audience (e.g. men, young people or ethnic minorities) varies across Member States. This wide variety of approaches offers an overview of the range of tools available.

In **Finland**, the NAP to Reduce Violence Against Women is particularly detailed, and has included some awareness raising activities and educational programmes since 2010. In **Austria**, several campaigns were carried out in 2014 and 2015 at both federal and Länder level. In addition, awareness raising measures were launched, such as websites, brochures, and conferences³¹⁴. In **Belgium**, one of the main objectives of the NAP for 2015-2019 is to conduct awareness raising campaigns for the general public, as well as for specific target groups (e.g. young people). The Institute for the Equality of Women and Men has undertaken several awareness campaigns, including a 2015 campaign to educate young men on the signals that can lead to violence, as well as anticipating and preventing such violence. In **Denmark**, several public campaigns were launched, including: violence in the family and in intimate relationships (particularly targeting young people); domestic violence in general (targeting women from ethnic minorities); and an information campaign on preventing sex crimes³¹⁵. In **Spain**, public campaigns and educational material on gender-based violence are regularly prepared by the national government³¹⁶ and civil society, as well as by private organisations³¹⁷. In **France**, different measures have been adopted in recent years through different Actions Plans. NAP 2017-2019 includes communications to reinforce the visibility of the existing services in place. Flyers have been distributed and educational programmes (training kits) have been provided to education staff (in schools and at research level) under both the previous and current Action Plans. In **Italy**, many educational programmes have been undertaken, specifically targeting violent men, including, for example, the 2014 campaign 'Recognise men – Free yourself from violence'³¹⁸, the 2015 cycle of seminars 'From man to man'³¹⁹, and the 2017 festival

³¹⁴ E.g. 'Living free from violence', '16 days against violence', 'One billion raising', 'My hands against violence part 2', etc. An entire list and description of all recent campaigns can be found in German in the Austrian state report, pp. 12-15.

³¹⁵ [Baseline report from the Government of Denmark](#) on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), January 2017.

³¹⁶ Spain, 'Campañas', Ministry of Health website.

³¹⁷ Spain, 'La Sociedad actúa', Ministry of Health and 'Iniciativa "Empresas por una sociedad libre de violencia de género"', Ministry of Health website.

³¹⁸ Italy, Maschileplurale, 2014, The campaign against men violence of Maschileplurale and Officina ([La campagna contro la violenza maschile di Maschileplurale e Officina](#)).

³¹⁹ Italy, Noino.org, 'Gender-based violence' (["Violenza di genere"](#)).

'Transform the male'³²⁰. In addition, several campaigns to raise awareness among the general public have been promoted at national and local level. In November 2016, the Ministry of Equal Opportunities adopted an information campaign which ran on national television, inviting women victims of violence to call the public utility number 1522, managed by Telefono Rosa³²¹. In **Malta**, the Commission on Domestic Abuse organised several awareness raising campaigns on domestic violence between 2014 and 2016. The latter included a school art competition targeting schools, a 'No to domestic violence' campaign targeting the general public (consisted of posters being set up in various bars, restaurants, pubs and other entertainment places), and a general campaign entitled 'Take a stand' (using buses to advertise posters depicting different types of domestic violence). In **the Netherlands**, a website run by the government³²² provides information to the general public on domestic violence. Several campaigns aimed at raising public awareness of violence against women have been launched through the years, such as the (international) White Ribbon campaign in the autumn of 2016. These campaigns included TV and radio spots. In **Poland**, the NAP for 2014-2020 foresees national and local awareness raising campaigns, such as the nationwide social campaign, 'React to violence' in 2014. A number of local campaigns also take place each year, such as the Wroclaw Campaign Against Violence every November. In **Portugal**, a campaign on preventing FGM ran in Portuguese airports, a 2016 campaign highlighted dating violence (specifically targeting young students), as well as a campaign against violence towards older women 'Never too late' (Nunca é tarde). Many educational guides on gender and citizenship aimed at mainstreaming gender equality into the education system were distributed by more than 800 school libraries, as well as by 16 libraries in higher education institutions. In **Sweden**, the Swedish Agency for Youth and Civil Society has been commissioned to actively promote violence prevention through municipalities and civil society organisations. The government, through its budget allocations for preventative work, also funds separate information campaigns, educational programmes and information resources. In 2009, the Police Authority launched a campaign (Come to us - 'Kom till oss')³²³ to encourage reporting of domestic crime. The active work with the campaign ended in 2015 but all relevant material remains available online.

Training of professionals

Article 15

1. Parties shall provide or strengthen appropriate training for the relevant professionals dealing with victims or perpetrators of all acts of violence covered by the scope of this Convention, on the prevention and detection of such violence, equality between women and men, the needs and rights of victims, as well as on how to prevent secondary victimisation.
2. Parties shall encourage the training referred to in paragraph 1 to include training on coordinated multi-agency cooperation to allow for comprehensive and appropriate handling of referrals in cases of violence covered by the scope of this Convention.

Under the Istanbul Convention obligations, State Parties must ensure the training of relevant professionals dealing with victims or perpetrators of violence. Such training can

³²⁰ Italy, Maschileplurale, 'Transform the male' ('[Transformare il maschile](#)') (2017).

³²¹ Italy, Governo Italiano, 2016, Campaign against violence against women ([Campagna di sensibilizzazione contro la violenza sulle donne](#)).

³²² the Netherlands, Ministry of Public Health: [huiselijkgeweld.nl campaign](#).

³²³ [Swedish Police Authority](#); GREVIO, p.23.

include **police and justice staff**, as well as staff from **social and health services or education**. Training professionals on violence against women contributes to improved identification and managing of cases at an early stage and better data collection³²⁴. It also significantly improves the nature and quality of the support provided to victims. According to these findings, most State Parties to the Convention adopted some measures, although the systematic nature of such training is unclear. Some Member States clearly adopted measures towards that goal, such as Austria and Belgium. Spain went a step further, establishing specialised courts for cases of violence against women. Specialist judges preside these courts.

In **Portugal**, about 59 in-service teacher training courses have been provided nationwide, covering more than 150 school clusters. The Portuguese government, in partnership with public organisations, also hopes to establish a project to raise awareness on sexual violence in intimate relationships within public administration professionals. In 2015, an agreement was signed between the government of **Sweden** and the Swedish Association of Local Authorities and Regions to strengthen the integration of questions on men, boys and masculinity, including violence prevention, in gender equality work in municipalities. In **Austria**, the issue of violence against women is systematically included in the various curricula for initial training, in particular for law enforcement agencies and those in the health sector. In **Belgium**, the Common Circular COL 4/2006 requires that all prosecution and police staff are correctly informed and trained to deal with cases of domestic and intimate partner violence. In each judicial district, at least one magistrate should undertake the training organised by the Superior Council of Justice. Similarly, in each police zone, at least one officer should have undergone specialised training³²⁵. One of the main objectives of Belgium's NAP to combat all forms of gender-based violence 2015-2019 is to ensure that professionals are trained on gender-based violence, including the integration and strengthening of such principles in the basic training for local police, magistrates, mediators, lawyers, psychiatrists, midwives, community nurses and general practitioners, among others. In **Spain**, the government also prepares different training, materials, reports and studies appropriate to a variety of professional environments (education, health, media, social assistance, employment, security, prisons, courts and regional and local administrations)³²⁶. In addition, Article 31 of Organic Law 1/2004 requires the establishment of specialised units in the State Security Forces for the prevention of gender-based violence and for monitoring the implementation of the judicial measures adopted³²⁷. The same Organic Law creates courts for violence against women (*Juzgados de Violencia contr la Mujer*). In 2016, 106 specialised courts were established over the national territory³²⁸, with specialised judges presiding. The judges of those courts must first undergo training on matters of gender violence, provided by the General Council of the Judiciary. In **France**, training forms part of the policy actions set up by successive NAPs. Such training has proved successful (Evaluation of the NAP for 2014-2016) and has been reinforced in the current plan. All professionals involved receive such training (police officers, judges, doctors, social workers, victim support organisations, firemen), particularly on the topic of violence against women. Some modules are compulsory while others are optional. The evaluation of the NAP noted that training should continue to be reinforced. In **Finland**, the

³²⁴ [Explanatory Report to the Istanbul Convention](#).

³²⁵ Circular COL 4/2006 (revised on 12 October 2015) Common Circular of the Minister of Justice and the Council of General Prosecutors regarding the criminal policy related to violence in the couple (*Omzendbrief nr. col 4/2006 van het college van procureurs-generaal bij de hoven van beroep/ Circulaire n° col 4/2006 du collège des procureurs généraux près les cours d'appel*).

³²⁶ Spanish [Ministry of Health website](#).

³²⁷ Organic Law 1/2004, of December 28, on Measures of Integral Protection against Gender Violence (*Ley Orgánica 1/2004, de 28 de diciembre, de Medidas de Protección Integral contra la Violencia de Género*), BOE núm. 313, de 29 de diciembre de 2004.

³²⁸ '[Juzgados de Violencia sobre la Mujer](#)', Spanish Council of the Judiciary website.

syllabus of the Police University College for 2016-2017³²⁹ does not include violence against women as a specific topic, although it may be included as a cross-cutting issue in other training modules. According to the 2016 report on close relationship violence, more training may be required on the recognition of both female and male victims and perpetrators of close relationship violence. No information was identified regarding training of judicial staff. In **Italy**, the NAP foresees that all professionals involved in combatting and preventing violence against women (including social assistants, professional educators, healthcare providers, volunteers at anti-violence centres and shelters, police officers, etc.) must be adequately trained³³⁰. Although, in practice, no mandatory specialised training on violence against women exists for police officers and judicial staff at national level, some regions provide some optional training. In **Malta**, domestic violence was introduced into the curriculum of police recruits in 1999. The training is mandatory and consists of legislation and procedure principles in dealing with cases of violence against women. Training for new recruits/officer cadets is given in one module, however training for in-service officers is given for a few hours in one semester. Recently, and according to national press, the Police Academy has launched a training programme to raise awareness among officers dealing with cases of domestic violence. The course aims to provide the police with the necessary know-how to tackle cases of domestic violence, understand the sensitivity of the cases and guide the victim of domestic violence on the steps available by law. Since 2013, in the **Netherlands**, doctors, nurses and other professionals who are in contact with victims of domestic violence are obliged to apply the Reporting code on domestic violence and child abuse. This includes the obligation to consult the organisation Veilig Thuis ('Safe Home'), which directs victims to shelters and supports. In 2015, the police appointed a programme director to raise awareness on the topic of violence against women. Gender-specific training initiatives seem to have been organised since then, although irregularly. No evidence could be found of training provided to judicial services staff. In **Poland**, the NAP for 2014-2020 includes the objective to increase the competency of law enforcement authorities and other entities in domestic violence prevention, including through training. In 2013, the Ministry of Justice developed and published a guide for judges on the prevention of domestic violence, prepared by the Department of International Cooperation and Human Rights. The guide contains information on acts of international law, as well as case law from the ECtHR and national legislation. As per Law 112/2009, criminal police bodies in **Portugal** receive specialised training on domestic violence with a view to preventing secondary victimisation, particularly during evidence collection. The development and approval of a training programme for both the Public Security Police and the National Republican Guard staff is planned, as is a cascaded training programme for every police station and post. Specialised training on domestic violence for judges and prosecutors is a mandatory element of their basic training programme. In **Romania**, the Strategy against domestic violence for 2013-2017 includes continuous professional training of specialists working in the field of family violence (e.g. social workers, police officers, doctors, psychologists, prosecutors, judges). The police is one of the institutions in **Slovenia** that has received the most robust training in the area of domestic violence, but this is not specifically tailored to violence against women. There is no regular training for the judiciary related to violence against women, very little training on domestic violence and some training related to children in judicial proceedings. In **Sweden**, the Judicial Courts' Training Academy organises courses for permanent judges and judges in training. These include violence against women, e.g. courses on sexual crimes, gross violation of a woman's integrity, and the judge's role³³¹. No

³²⁹ [Syllabus of the Police University College for 2016-2017](#).

³³⁰ Italy, Governo Italiano, 2015, Extraordinary action plan against sexual and gender-based violence, p. 20, *supra*.

³³¹ [Baseline Report submitted by Sweden](#) pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence, 2017, p.33.

information was found as to the mandatory nature of these courses but the information suggests that they were optional. Following a commission from the Government, the Swedish Crime Victim Compensation and Support Authority conducted a training programme in 2011-2014, aimed at staff in the Police Authority, the Swedish Prosecution Authority and the courts system. Lawyers who are members of the Swedish Bar Association were also given the opportunity to participate.

Preventative intervention and treatment programmes

Article 16

1. Parties shall take the necessary legislative or other measures to set up or support programmes aimed at teaching perpetrators of domestic violence to adopt non-violent behaviour in interpersonal relationships with a view to preventing further violence and changing violent behavioural patterns.
2. Parties shall take the necessary legislative or other measures to set up or support treatment programmes aimed at preventing perpetrators, in particular sex offenders, from re-offending.
3. In taking the measures referred to in paragraphs 1 and 2, Parties shall ensure that the safety of, support for and the human rights of victims are of primary concern and that, where appropriate, these programmes are set up and implemented in close coordination with specialist support services for victims.

The obligation to establish preventative **intervention and treatment programmes** stems from the idea that men and boys should actively contribute to preventing all forms of violence covered by the Convention³³². Preventative intervention and treatment programmes aim to help the perpetrators to adopt non-violent behaviour in interpersonal relationships in order to prevent further acts of violence. State Parties may choose the model they wish to implement, but they should aim to use skilled and trained facilitators, as well as ensuring that programmes are based on established research and best practice³³³. The Convention places a specific emphasis on the need for treatment programmes targeting sex offenders, with a view to minimising recidivism.

In **Austria**, programmes for perpetrators are offered by counselling centres³³⁴ or by the Austrian probation service 'Neustart'³³⁵. While the latter deals almost exclusively with convicted domestic violence offenders who were court-ordered to attend such a programme, counselling centres may be frequented on a voluntary basis. Perpetrators of other sexual offences also fall within the specific support programmes run by Neustart. Such programmes are usually part of a range of court ordered measures and typically consist of individual counselling, as well as anti-violence training and addiction recovery programmes³³⁶. In **Belgium**, introducing treatment of perpetrators is listed as an objective of the NAP, with related actions including setting up support programmes to teach the perpetrators of domestic violence to adopt non-violent behaviour in interpersonal

³³² Article 12 of the Istanbul Convention.

³³³ [Explanatory Report to the Istanbul Convention](#).

³³⁴ Austria, Association for Men's and Gender Issues Graz, the Men's Counselling Centre Vienna, and the Domestic Violence Intervention Centre Vienna.

³³⁵ Austrian probation service, '[Neustart](#)'.

³³⁶ Ibid.

relationships, as well as targeting sex offenders to prevent them from re-offending³³⁷. In **Denmark**, the Government has financed a project offering therapeutic treatment to perpetrators of domestic violence, as well as their partners and children³³⁸. In **Portugal**, a rehabilitation programme has been developed, targeting domestic violence perpetrators where the male offender maintains or has maintained a relationship with the female victim. The programme is applied by the courts and implemented by the rehabilitation services within prisons, in order to promote awareness, taking personal responsibility for violent behaviour, and the use of alternative strategies, in a bid to reduce criminal recidivism. The same service has also developed a rehabilitation programme for sex offenders. **Sweden** has an integrated domestic abuse programme, consisting of a treatment programme targeting adult men who have used threats, violence or other types of controlling behaviour towards a current or former female partner. Group sessions are combined with risk assessment of relapses, and are followed by risk management and working with the offender's partner. Since the 2005 Act on Prevention of Domestic Violence, **Poland** foresees the creation of effective counter-measures to domestic violence. In this vein, it has adopted corrective-educational measures for perpetrators of domestic violence, with the number of participants increasing exponentially in the past 10 years³³⁹. Since 2010, **Finland's** very detailed NAP to Reduce Violence Against Women has included intervention programmes with perpetrators. In **France**, accountability courses for perpetrators of domestic violence were carried out during the 2014-2016 NAP. Those consisted of training courses, support groups, and individual interviews carried out in 10 penitentiary and probation services.

Financial and human resources

Article 8

Parties shall allocate appropriate financial and human resources for the adequate implementation of integrated policies, measures and programmes to prevent and combat all forms of violence covered by the scope of this Convention, including those carried out by NGOs and civil society.

The allocation of appropriate financial and human resources is a crucial element in effective prevention and combatting of all forms of violence against women, thus the Convention foresaw this important **obligation**. State Parties may choose to allocate resources through public authorities or relevant NGOs and civil society organisations³⁴⁰. The national research looked at the allocation of resources, chiefly for the implementation of the NAPs. While some information on resources was identified in a number of Member States, no information could be identified for others. Some Member States have prioritised the fight against violence against women through clear increase in the resources allocated, while others show a distinct lack of resourcing. In view of the lack of sufficient data, however, no trends can be reliably identified.

In **Austria**, financial resources are provided at both federal and state level and include awareness raising activities, research, networking meetings, NGO-run counselling and

³³⁷ Belgium, [National Action Plan to combat all forms of gender-based violence 2015-2019](#).

³³⁸ [Baseline report from the Government of Denmark](#) on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), January 2017.

³³⁹ Number of participants since 2007 are: 2007 – 2,922; 2008 – 4,214; 2009 – 4,403; 2010 – 4,791; 2011 – 4,475; 2012 – 4,533; 2013 – 4,618; 2014 – 8,598; 2015 – 9,429; 2016 – 9,666.

³⁴⁰ [Explanatory Report to the Istanbul Convention](#).

support services, perpetrator programmes and court assistance for victims of violent crime, as well as the placement of one specifically trained domestic violence officer in each law enforcement unit, specialist prosecution services and a national helpline for victims of violence against women. EUR 5 million is allocated annually by the Federal Ministry of Health and Women's Affairs for violence against women, of which EUR 3.6 million is used to finance the nine violence protection centres across Austria. An additional EUR 1.06 million in 2014 and EUR 1.96 million in 2015 funded a programme for peaceful coexistence, violence prevention, and integration, 'leaving next to nothing for preventive measures, policy-making, and evaluations of the impact of existing policies or other important measures, such as prevention'³⁴¹. In **Spain**, EUR 31.7 million were assigned to combatting gender-based violence under the 2017 state general budget³⁴². In **Finland**, the resource question was discussed at length in the 2016 evaluation of the Action Plan to Reduce Violence against Women. The evaluation stated that this matter did not receive attention in the report of the working group on the ratification of the Convention. Expert opinions also note a significant lack of resources. The financial resources dedicated to the prevention of violence against women were noted to have been almost non-existent at the end of the first decade of the millennium, in marked contrast to Nordic and European levels. As **Malta** does not have a NAP, it was not possible to find information on resources allocated for policy measures adopted to address violence against women. In **Poland**, in 2017, the parliament reduced the defender's general budget by 8%, directly impacting the financial resources dedicated to fighting violence against women. In **France**, the government has steadily increased the financial resources allocated for the fight against gender-based violence, with a total of EUR 125 million to be allocated to financing the plan between 2017 and 2019. In **Italy**, the Ministry of Equal Opportunities allocated approximately EUR 10 million per year from 2013 to 2017 to relevant projects to implement the Extraordinary action plan against sexual and gender-based violence³⁴³. In 2015 in the **Netherlands**, the Ministry of Social Affairs and Labour announced the launch of its Empowerment Action Plan 2015-2017, which focuses on further tackling honour-related violence and forced marriages. As part of this Action Plan, EUR 3 million were allocated to tackling these two issues. In 2016, the government assigned a further EUR 4.2 million to supporting the fight against sexual violence, which facilitated the opening of more regional centres providing aid to victims of sexual violence. In **Portugal**, EUR 13,885,274 was secured in the 2016 state budget for the seven state Ministries responsible for combatting violence against women. This research found no changes in financial or human resource allocation in **Slovenia** after its ratification of the Istanbul Convention.

2.4. The GREVIO monitoring process and its early results

2.4.1. The GREVIO process

The Istanbul Convention establishes a monitoring mechanism to ensure its smooth implementation. This mechanism is structured around two pillars: firstly, the Group of Experts on combatting violence against women and domestic violence (**GREVIO**); and secondly, the **Committee of the Parties**. While GREVIO is composed of independent and impartial experts working in the field of violence against women, the Committee of the Parties is a political body composed of representatives of all State Parties.

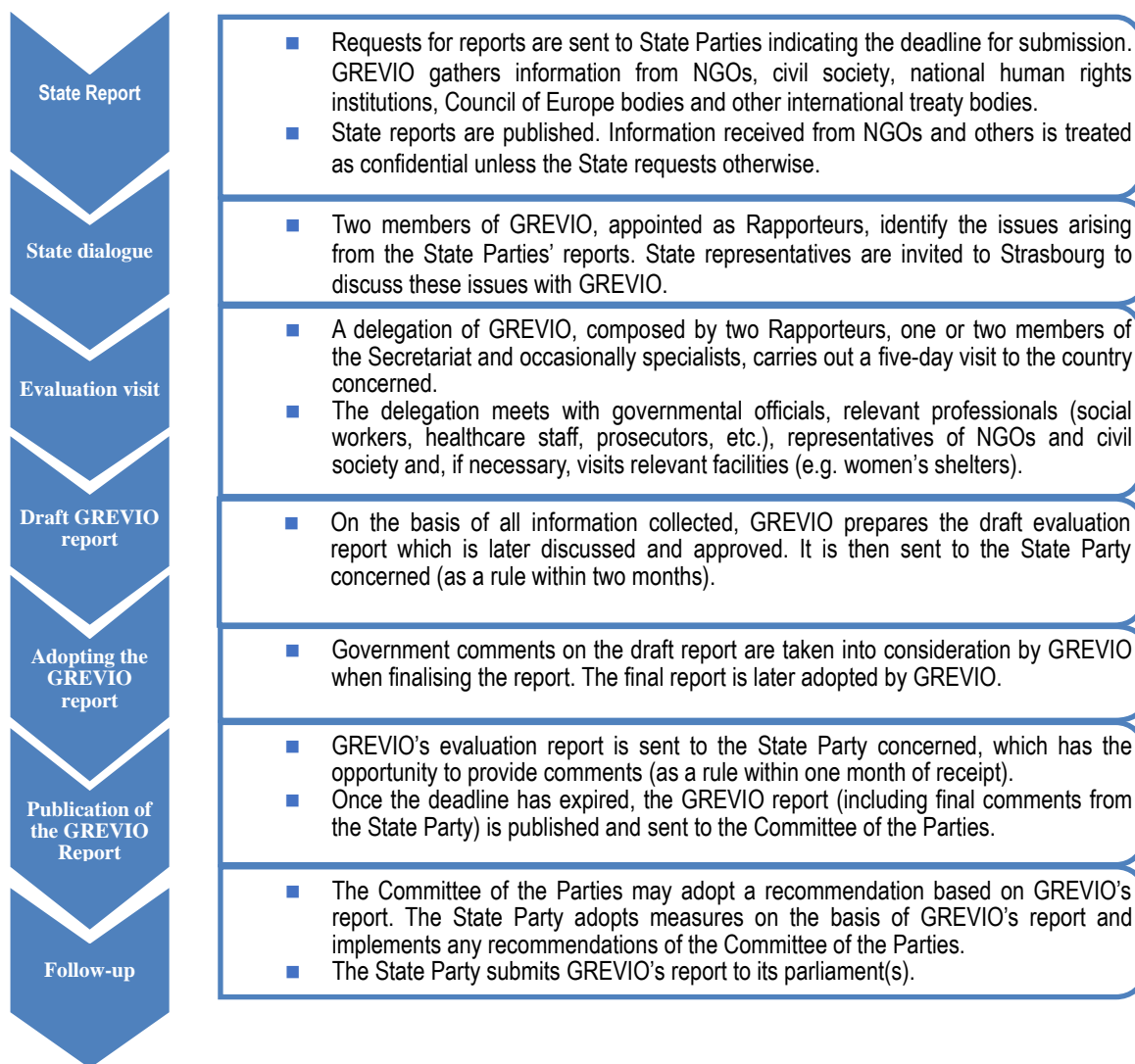
³⁴¹ GREVIO, 2017, *Baseline Evaluation Report Austria*, p. 15.

³⁴² El País, 30 May 2017, *El PP sube la partida contra la violencia machista para salvar el pacto de Estado*.

³⁴³ Italy, Governo Italiano, 2015, *Extraordinary action plan against sexual and gender-based violence*, p.8, *supra*.

Each State Party to the Convention must appoint a **coordinating body** responsible for the application, monitoring and evaluation of policies and measures taken under the Convention. State Parties are expected to report to GREVIO via this coordinating body³⁴⁴.

The procedure for the evaluations is triggered by GREVIO, which sends its questionnaire to the Parties concerned. The procedure is subsequently divided into seven steps:



GREVIO started the process of monitoring the implementation of the Convention in 2016 and has met nine times to date. It adopted a questionnaire to be used by State Parties in the monitoring process. The so-called **GREVIO questionnaire**³⁴⁵ asks for information on legislative and policy measures, together with data that will enable the expert group to assess the level of implementation of the Convention and the extent to which the Convention is applied in each State Party.

³⁴⁴ Council of Europe, '[About Monitoring](#)' webpage.

³⁴⁵ Council of Europe, GREVIO, 2016, [Questionnaire on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence](#), GREVIO/Inf(2016)1, Date: 11.3.2016.

GREVIO produced a preliminary schedule of monitoring for the 2016/2017 period, and a schedule of countries by group. The reporting process will also be open to NGOs working in the field of protection of women from violence in the family and intimate partner relations.

Some Member States have already submitted their reports, such as **Denmark, Portugal, Austria** and **Sweden**³⁴⁶. France, Italy and Finland are expected to submit their reports in March 2018, Spain and the Netherlands in June 2018, Poland in July 2018, Belgium, Malta and Slovenia by December 2018, and Romania in June 2019.

2.4.2. Monitoring results

GREVIO evaluation reports assess the measures of implementation taken by Member State authorities with regard to all aspects of the Istanbul Convention. As of October 2017, two evaluation reports were published, assessing implementation by **Austria** and **Monaco**³⁴⁷. This section presents a short overview of the main findings and recommendations of GREVIO in relation to data collection, general support services for women victims, and substantive civil and criminal law measures in the two countries. Monaco is not an EU Member State, and its domestic legal and policy frameworks concerning prevention and combatting violence against women have thus not formed part of this study. However, GREVIO's analysis and findings in relation to the situation in Monaco may be equally relevant for Member States, as they give a useful insight into GREVIO's interpretation of the Convention's provisions and its requirements for implementation in practice. Therefore, the section is not limited to the evaluation report for Austria as an EU Member State, but also draws information from the report on Monaco.

Data collection

The report on **Austria** emphasised that the collection of systematic and comparable data from all relevant administrative sources is crucial, as is information on prevalence of all forms of violence against women³⁴⁸. There is sufficient information on the prevalence of physical, sexual and psychological violence and sexual harassment. However, the prevalence of other forms of violence against women, in particular FGM and forced marriage, has never been assessed³⁴⁹. **GREVIO strongly advised** Austrian authorities to take measures to **monitor the prevalence** of other forms of violence against women not previously assessed³⁵⁰. Regarding **administrative data** collection³⁵¹, GREVIO pointed out the opportunities that the ratification of the Istanbul Convention presented with regard to the role assigned to the coordinating body in the collection, analysis and dissemination of data. In both the criminal justice sector and law enforcement agencies, Austria has undertaken efforts to systematically record the nature of the relationship between the victim and the perpetrator, although GREVIO did not consider the existing categories of relationship sufficiently specific. It therefore encouraged the Austrian authorities to **develop data categories on the type of relationship** of the perpetrator to the victim,

³⁴⁶ In 2016 and 2017 for Austria and Denmark, respectively. Portugal submitted its report in September 2017 and this will be considered by GREVIO at its 13th meeting in February 2018. GREVIO's evaluation report for Portugal is due in the course of 2018. Sweden also submitted in 2017.

³⁴⁷ Monaco is not part of the EU; however, it is still relevant to analyse the monitoring results of the country.

³⁴⁸ GREVIO, 2017, *Baseline Evaluation Report Austria*, para.38.

³⁴⁹ *Ibid.*, para.39.

³⁵⁰ *Ibid.*, para.40.

³⁵¹ In Austria, authorities contracted several entities to gather data, beyond the classic data sources of law enforcement agencies and the criminal justice sector. These included organisations offering psychosocial and legal assistance, men's counselling services, etc.

and to ensure that these and any other data categories used are harmonised across the various sectors.

For **Monaco**, GREVIO acknowledged the efforts made by the authorities, in particular the coordinating body, which resulted (for the first time) in a cross-referenced compilation of the data recorded by the various services concerned³⁵². However, it recommended that the authorities '**systematise** and **streamline** the collection of data relating to violence against women at all levels, using **terminology** reflecting that of the Istanbul Convention, and to make these data publically available'³⁵³.

General support services

For **Austria**, GREVIO highlighted the stark contrast in the number, **scale and regional spread** of services between domestic violence victim services and services for victims of other forms of violence³⁵⁴. For sexual harassment, for example, no dedicated specialist support services seem to exist, nor are there dedicated supports for forced marriage or FGM³⁵⁵. GREVIO advised that greater attention be paid to these forms of violence. On **shelters**, GREVIO noted that despite the efforts made by Austria in relation to domestic violence, ensuring access for all women in need remains an issue. It pointed to the 353 women turned away in 2015 for **lack of space**, as well as the fact that not all shelters admit boys over 14 years who arrive with their mothers, discouraging certain women from leaving an abusive relationship³⁵⁶. GREVIO urged the Austrian authorities to ensure that sexual violence (including rape) counselling services are available everywhere and to set up adequate support services for victims of forced marriage, FGM and women victims of domestic violence. Regarding **telephone helplines**, Austria already has several free-of-charge helplines that operate 24/7.

For **Monaco**, GREVIO noted the absence of support and protection services specifically designed to meet the precise needs of the victims. Nor were there **trained staff** or **guidelines and protocols** setting out standards to be applied in different fields³⁵⁷. GREVIO encouraged the authorities to ensure that staff in general services are trained and given formalised instructions or protocols, and to provide specialist support services³⁵⁸. Regarding **shelters**, in Monaco, there are a number of options for emergency accommodation for victims. Although various accommodations are not specifically for women, GREVIO noted that they appeared well-equipped³⁵⁹. It also noted, however, that shelters **should also provide support** for women and their children. Regarding **telephone lines**, the number launched by the authorities generally transfers to an answerphone and is not accessible on a 24/7 basis³⁶⁰. GREVIO reiterated the need for an efficient and multilingual helpline, available around-the-clock.

Substantive law

Chapter V of the Convention includes several provisions related to substantive civil and criminal law. Upon ratification of the Convention, State Parties undertake to have in place a legislative framework which **protects women** from further victimisation and enables them

³⁵² GREVIO, 2017, *Baseline Evaluation Report Monaco*, para.33.

³⁵³ *Ibid.*, para.36.

³⁵⁴ GREVIO, 2017, *Baseline Evaluation Report Austria*, para.100.

³⁵⁵ *Ibid.*, para.101.

³⁵⁶ *Ibid.*, para.105 and 106.

³⁵⁷ GREVIO, 2017, *Baseline Evaluation Report Monaco*, para.71.

³⁵⁸ *Ibid.*, para.76.

³⁵⁹ *Ibid.*, para.79.

³⁶⁰ *Ibid.*, para.82.

to claim compensation for the harm they suffered, while also prosecuting and effectively **punishing perpetrators** (see Section 2.3.2. below). The evaluation of the legal framework of Austria and Monaco by GREVIO pointed to certain implementation problems, a brief and non-exhaustive overview of which is presented below.

On **civil remedies and compensation**, GREVIO pointed to the fact that in **Monaco**, victims' compensation is governed by general legal provisions underpinning the principle that compensation must be in full and reflect as fairly and appropriately as possible the damage suffered³⁶¹. Compensation is, in principle, awarded under criminal law, and the Code of Criminal Procedure contains provisions that could be characterised as advantageous for victims. However, despite the existence of a legislative framework enabling compensation, GREVIO noted that the number of women victims claiming and obtaining compensation during the 2014-2015 period was low compared to the number of criminal cases. It thus encouraged national authorities to 'adopt measures to ensure **effective access to and enjoyment of a victim's right to compensation** for damages suffered'³⁶². **Austria** operates a scheme enabling state compensation where compensation cannot be obtained from the perpetrator, based on the Law on Victims of Crime. The general availability of compensation was welcome by GREVIO. Nevertheless, the latter noted that certain criteria included in that law exclude some victims from eligibility, e.g. migrant women victims of domestic or sexual violence residing unlawfully in Austria at the time of the offence, or whose country of origin offers a comparable compensation scheme³⁶³. Women who waived the right to claim compensation from the perpetrator during the course of criminal proceedings are similarly excluded from the possibility to claim state compensation³⁶⁴. GREVIO argued that such **exclusion criteria could be problematic**. Requiring migrant women residing in Austria to investigate the existence of compensation schemes in their states of origin is burdensome, as they may have to incur costs for legal advice. For those women who waived the right to claim compensation from the perpetrator, such victims may not always be adequately informed of the consequences of their choice³⁶⁵. GREVIO thus encouraged the authorities to make access to claims for compensation **available to all victims** of the forms of violence covered by the Convention³⁶⁶.

On **criminalisation** of the offences listed in Articles 33 to 40 of the Convention, the evaluation reports indicated certain gaps in the national legal frameworks (i.e. lack of explicit criminalisation of certain conduct), as well as definitions of offences which are not fully aligned with the respective definitions under the Convention. For instance, both **Austrian** and **Monegasque** criminal law seem to address **psychological violence** from the point of view of threats, particularly serious threats involving violence. The Convention, however, perceives the offence of psychological violence as a pattern of behaviour occurring over time causing psychological duress to the victims. The conduct to be sanctioned **should not be limited to threats**, as psychological violence can also manifest in the form of isolation, excessive control and intimidation of the victim³⁶⁷. In relation to **sexual violence and rape**, it appears that neither country criminalises the conduct of 'causing another person to engage in non-consensual acts of a sexual nature with a third

³⁶¹ GREVIO, 2017, *Baseline Evaluation Report Monaco*, para.102.

³⁶² *Ibid.*, para.103 and para.105..

³⁶³ GREVIO, 2017, *Baseline Evaluation Report Austria*, para.130.

³⁶⁴ *Ibid.*

³⁶⁵ *Ibid.*

³⁶⁶ *Ibid.*, para.132.

³⁶⁷ GREVIO, 2017, *Baseline Evaluation Report Monaco*, para.113.

person' as required under Article 36(1)(c) of the Convention³⁶⁸. In **Monaco**, criminalisation of **sexual harassment** is also not fully aligned with the Convention. Under national law, sexual harassment is not addressed as a specific offence but is instead covered under the offence of 'repeated acts or omissions with the purpose or effect of degrading the victim's living conditions entailing a deterioration in his or her health'³⁶⁹. This definition places the impact on the victim's health at the centre, rather than respect for the victim's dignity. While sexual harassment under the Convention is meant to cover any conduct of a sexual nature that could create an intimidating, hostile or offensive environment, thereby violating the person's dignity, national law narrows this definition by providing that harassment must entail a deterioration in the victim's (physical or mental) health³⁷⁰. As a result, GREVIO invited national authorities to ensure that acts of violence are criminalised under national law in accordance with the definitions of offences established in the Convention³⁷¹.

³⁶⁸ GREVIO, 2017, *Baseline Evaluation Report Monaco*, para.116; GREVIO, 2017, *Baseline Evaluation Report Austria*, para.142 and 143.

³⁶⁹ GREVIO, 2017, *Baseline Evaluation Report Monaco*, para.120.

³⁷⁰ *Ibid.*

³⁷¹ *Ibid.*, para.121.

3. EU ACCESSION TO THE ISTANBUL CONVENTION

KEY FINDINGS

- The EU signed the Istanbul Convention on 13 June 2017 and is in the process of concluding the Convention.
- The EU can only bind itself to the extent of its competence. It has a number of supporting and shared competences in the area, yet Council Decisions have limited the signing of the Convention to four specific legal bases: 1) criminal procedural rights within the limits of Article 82(2) and substantive law within the limits of Article 83(1); and 2) asylum and non-refoulement within the limits of Article 78(2).
- The accession by the EU to the Istanbul Convention results in the Convention becoming legally binding on both the EU and its Member States, as the Convention will effectively form part of EU law. Member States will need to apply the Convention when implementing EU law, to the extent of the EU competence on the matters.
- The EU will need to ensure compliance of its legal and policy framework with the Convention.
- Another consequence of the accession is that EU law will come under the scrutiny of the Council of Europe with respect to its compliance with the Convention.

3.1. The EU accession process

3.1.1. Context

The EU signed the Istanbul Convention on 13 June 2017³⁷². By doing so, it aimed to contribute 'to the realisation of equality between women and men in all areas, which is a core objective and value of the Union to be realised in all its activities'³⁷³. In signing the Convention, the EU recognises that violence against women is a violation of human rights 'entrenched in gender inequalities'.

The accession of the EU to the Convention will reinforce EU commitment to combatting violence against women within the EU and globally³⁷⁴. It will also strengthen the substantial existing legal framework in the area of criminal law relevant to violence against women, while enhancing legal certainties and avoiding disparities across the EU.

³⁷² Council of Europe Newsroom, 2017, [EU signs Council of Europe convention to stop violence against women](#).

³⁷³ [Council Decision \(EU\) 2017/866](#) of 11 May 2017 on the signing, on behalf of the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence with regard to asylum and non-refoulement, OJ L 131, 20.5.2017; [Council Decision \(EU\) 2017/865](#) of 11 May 2017 on the signing, on behalf of the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence with regard to matters related to judicial cooperation in criminal matters, OJ L 131, 20.5.2017.

³⁷⁴ European Commission, [Proposal for a Council decision on the conclusion, by the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence](#), COM/2016/0109 final - 2016/062 (NLE); European Commission, [Roadmap \(A possible\) EU Accession to the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Istanbul Convention\)](#), 2015/JUST/010.

Signing the Convention is the first step in the process of EU accession to the Convention. The process of the accession is described below, together with an overview of the areas of EU competence in relation to Convention requirements.

3.1.2. EU competences in relation to the Istanbul Convention

The EU can only bind itself to the extent of its competence and, insofar as its conclusion may affect common rules or alter their scope, in accordance with Article 3(2) of the Treaty on the Functioning of the European Union (TFEU)³⁷⁵. Accordingly, the EU has a wide external exclusive competence to conclude international agreements where it exercises its internal power (i.e. in matters in which the EU can take action internally)³⁷⁶.

The Istanbul Convention is a mixed agreement, in that it covers areas falling under the competence of both the EU and Member States. More precisely, the Istanbul Convention covers matters falling under EU supporting and shared competences. The areas of **supporting competence** are limited to:

- Education and training, under Articles 165 and 166 TFEU (Articles 14 and 15 of the Convention); and
- Crime prevention under Article 84 TFEU (Chapters III and VI).

The EU can thus take action to support, coordinate or supplement Member State actions in these two areas.

The most relevant provisions of the Convention fall under the area of EU **shared competence**. These chiefly concern the EU acquis in criminal law, victims' rights, cross-border cooperation and immigration and asylum. In those areas where the EU exercises its shared competence, Member States may no longer adopt measures. The exercise of shared competence is conditional on the application of the principles of subsidiarity and proportionality.

Table 6 below presents the shared competences that are arguably of most relevance under the Convention.

Table 6 EU shared competence and the provisions of the Istanbul Convention

Shared competence (Article 4 TFEU)	Relevant Istanbul Convention provisions
Protection against discrimination based on sex - Article 19 TFEU	The Convention in its entirety
Establish minimum rules on rights of victims of crime and rights of individuals in criminal procedures - Article 82(2) TFEU	Chapter IV – protection and support in relation to victims of crime in criminal procedures
Establishing coordination and cooperation measures necessary to facilitate consular protection - Article 23 TFEU	Article 18(5) – Measures to provide consular and other protection to victims entitled to such protection under international law
Adopt minimum rules to define serious crime with cross-border dimensions, including	Article 37 – Forced marriage Article 38 – FGM

³⁷⁵ [Article 3 and Article 216 TFEU](#).

³⁷⁶ Craig, P. and De Burca, G., 2015, *EU law, text, cases and materials*, sixth edition, Oxford p.83.

Shared competence (Article 4 TFEU)	Relevant Istanbul Convention provisions
trafficking and sexual exploitation of women and children - Article 83 TFEU	Article 42 – Honour crimes
Establishing minimum rules on rights of victims of crime and rights of individuals in criminal procedures - Articles 82(2)	Chapter VI – protection measures in relation to victims of crime in criminal procedures
Adopt measures for a common European asylum system and adopt measures to manage migration and trafficking - Articles 78 and 79 TFEU	Chapter VII – Migration and asylum
Sexual harassment in matters of employment and occupation and access to and supply of goods and services - Article 157 TFEU	Article 40 – Sexual harassment
Cross-border civil and criminal matters - Articles 81 and 82 TFEU	Chapter VIII on international cooperation
Adopt rules on data protection - Article 16 TFEU	Article 65 – Data protection

The table shows the scattered scope of EU competence in relation to the Istanbul Convention. In those areas in which the EU does not have competence, the Member States do. As the Convention includes provisions falling within both competences, it will be necessary to establish coordination arrangements between the EU and the Member States in relation to the implementation and monitoring of the Convention, as recognised by the Commission³⁷⁷.

3.1.3. The road to accession

The road to accession started with the EU's participation as an observer in the meetings of the Ad-Hoc Committee negotiating the Istanbul Convention. This participation was on foot of its undertaking with the Council of Europe to consult each other at an early stage in the process of developing laws and standards³⁷⁸.

The Convention specifically foresees the possibility for the EU (as a non-Member State that participated in the development of the Convention) to sign and access the Convention³⁷⁹. The European Parliament has several times called on the European Commission to adopt a proposal for EU accession to the Istanbul Convention, beginning with its Resolution of 25 February 2014³⁸⁰. In 2015, the Commission issued a roadmap on a possible EU accession to

³⁷⁷ European Commission, 2016, [Proposal for a Council decision on the conclusion, by the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence](#), COM/2016/0109 final - 2016/062 (NLE).

³⁷⁸ [Memorandum of Understanding between the Council of Europe and the European Union](#), 11 May 2007.

³⁷⁹ Articles 75 and 76 of the Istanbul Convention.

³⁸⁰ [European Parliament Resolution](#) of 25 February 2014 with recommendations to the Commission on combating Violence Against Women (2013/2004(INL)); European Parliament, 2017, [The Istanbul Convention at a glance: A tool to tackle violence against women and girls](#).

the Convention³⁸¹. A year later, it issued two proposals for a Council Decision on the **signature** and **conclusion** of the Istanbul Convention³⁸².

The EU **signed** the Convention through the adoption of two distinct decisions:

- **Decision 2017/866** in relation to its competence on asylum and non-refoulement, using Article 78(2) as a legal basis, and to which Denmark, Ireland and the UK are not bound³⁸³.
- **Decision 2017/865** on matters related to judicial cooperation in criminal matters, using Articles 82(2) and 83(1) as legal bases, and in which Denmark does not take part³⁸⁴.

These Council decisions set the tone of the scope of the EU accession, limiting its accession to specific areas of **EU competence**³⁸⁵. The choice of legal bases for the accession sheds some light on the extent of the EU competences at stake.

Council Decisions' legal bases

The Council of the EU adopted two decisions based on three specific legal bases. Those legal bases relate to areas where the EU has shared competence and in which the EU has exercised its competence. The legal bases and the extent of which the EU has acted based on those competences are described below.

Article 82(2)

This legal basis allows the EU to take measures on criminal procedures needed 'to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a cross-border dimension'. Legislation based on Article 82(2) can regulate four precise matters:

1. Mutual admissibility of evidence.
2. Rights of individuals in criminal procedures.
3. Rights of victims of crime.
4. Any other specific aspects of criminal procedure which the Council has identified, acting unanimously and with the consent of the European Parliament.

Under this legal basis, the harmonisation of laws at EU level is predicated on its relevance to the **mutual recognition** of judgments, and is limited to crimes with a **cross-border dimension**.

Key legislation applying to violence against women has been adopted using this legal basis, including the Victims' Rights Directive 2012/29/EU, which establishes minimum standards

³⁸¹ European Commission, 2015, [Roadmap \(A possible\) EU Accession to the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Istanbul Convention\)](#), 2015/JUST/010.

³⁸² European Commission, 2016, [Proposal for a Council Decision on the conclusion, by the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence](#), COM(2016) 109 final, 4.3.2016; [Proposal for a Council Decision on the signing, on behalf of the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence](#), COM(2016/0111 final - 2016/063 (NLE).

³⁸³ [Council Decision \(EU\) 2017/866](#) of 11 May 2017 on the signing, on behalf of the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence with regard to asylum and non-refoulement, OJ L 131, 20.5.2017.

³⁸⁴ [Council Decision \(EU\) 2017/865](#) of 11 May 2017 on the signing, on behalf of the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence with regard to matters related to judicial cooperation in criminal matters, OJ L 131, 20.5.2017.

³⁸⁵ Council of the European Union, 2016, [Note on Combating Violence against Women and Girls - Istanbul Convention: the internal and external dimensions](#).

for the rights of crime victims and support for victims³⁸⁶. The Victims' Rights Directive contains many provisions relevant to the requirements of the Istanbul Convention. Other key Directives in the area which have Article 82(2) as their legal basis include the Trafficking in Human Beings Directive 2011/36/EU³⁸⁷ and the Child Sexual Abuse Directive 2011/93/EU³⁸⁸.

Legal instruments adopted on this legal basis require the ordinary legislative procedure, with the exception of the specific aspects of criminal procedures other than those listed in the TFEU, which require unanimity.

With respect to the area of freedom, security and justice (Title V of the TFEU), **Denmark, Ireland** and the **UK** have **opted out**. As a result, legal instruments established under this area are not binding on those three Member States. Ireland and the UK have the option to **opt in** to a legislative measure by notifying the Council and the Commission of their intention to be bound by such a measure³⁸⁹.

This legal basis of the Istanbul Convention is key, as it relates to the rights of crime victims and criminal procedures. More specifically, it can be used to implement Chapter IV and VI of the Convention.

Article 83(1)

While Article 82 is concerned with criminal procedural law, Article 83 relates to criminal law. This legal basis provides for **harmonisation of the definitions and sanctions** on criminal offences for '**particularly serious** crimes with a **cross-border** dimension, resulting from the nature or impact of such offences or from a special need to combat them on a common basis'. Article 83(1) also provides a list of crimes that fall within this scope, including trafficking in human beings, and sexual exploitation of women and children. Such crimes would include sexual violence within the context of obtaining an advantage or an imbalance of power.

Additional crimes could fall under this legal basis by a decision of the Council acting unanimously, after obtaining the consent of the European Parliament.

Article 83(1) can be used as a legal basis in combination with Article 82(2), as in the case of the Child Sexual Abuse Directive 2011/93/EU and Trafficking in Human Beings Directive 2011/36/EU.

This legal basis would enable the EU to implement Article 36 of the Istanbul Convention (sexual violence) in the context of exploitation. It could also potentially be used for other substantive law provisions of the Convention by decision of the Council acting unanimously. Considering the large scale of violence against women across the EU, other forms could qualify as a '**special need to combat on a common basis**'. In addition, a number of serious forms of violence established by the Convention have a cross-border element. This is the case for forced marriage and FGM. Some authors have argued that sexual violence

³⁸⁶ [Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime](#), OJ L 315, 14.11.2012.

³⁸⁷ [Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims](#), OJ L 101, 15.4.2011.

³⁸⁸ [Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography](#), OJ L 335, 17.12.2011.

³⁸⁹ Protocols No 21 and No 22 of the [TFEU](#).

could also fall within this category³⁹⁰. Sexual violence qualifies as a particularly serious crime, although whether or not it passes the threshold of a cross-border dimension is unclear, even in light of the free movement of citizens, including perpetrators, and the extent of the problem across the EU.

Article 78(2)

This legal basis concerns measures for a common European asylum system, including legal measures for the status of asylum and subsidiary protection of third country nationals.

Based on Article 78(2), the EU can take measures to implement Articles 60 and 61 of the Istanbul Convention.

Both Council Decisions on the signature of the Istanbul Convention also used **Article 218(5)** as legal basis, which simply provides the Council with the competence to sign an international agreement.

Choice of legal bases

In its two Decisions, the Council clearly intended to restrict the extent to which the EU is bound by the Istanbul Convention to two specific areas: 1) criminal procedural rights within the limits of Article 82(2) and substantive law within the limits of Article 83(1); and 2) asylum and non-refoulement within the limits of Article 78(2).

The European Parliament expressed concerns on this limitation, highlighting the potential for uncertainties in the implementation of the Convention³⁹¹.

Originally, the Commission proposal on the signing by the EU of the Istanbul Convention had envisaged Article 82(2) and Article 84 TFEU as its legal bases, in conjunction with Article 218(5)³⁹². The Commission analysis accompanying the proposal for a Council decision acknowledged the potential additional relevant legal bases in the TFEU: Article 16 (data protection), Article 19(1) (sex discrimination), Article 23 (consular protection), Articles 18, 21, 46, 50 (free movement of citizens, free movement of workers and freedom of establishment), Article 79 (immigration), Article 81 (judicial cooperation in civil matters), Article 84 (non-harmonising measures for crime prevention), and Article 157 (equal treatment of men and women in areas of employment and occupation, covering sexual harassment).

Other paragraphs of Article 82 and Article 83 TFEU are also relevant. Article 82(1) provides for competence with respect to the training of judiciary and judicial staff, which is relevant to the requirement of training professionals under Article 15 of the Istanbul Convention. Article 83(2) is also important, as it enables harmonisation of definitions and sanctions of crimes beyond the list provided in Article 83(1).

Neither the Commission nor the Council has included **Article 19** TFEU on non-discrimination as a legal basis, thus omitting any acknowledgment that violence against

³⁹⁰ Walby, S. and Olive, P., 2013, [Economic aspects and legal perspectives for action at EU level](#), European Parliament.

³⁹¹ European Parliament, LIBE and FEMM Committees, 2017, [Interim Report on the proposal for a Council decision on the conclusion, by the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence \(COM\(2016\)0109 – 2016/0062\(NLE\)\)](#).

³⁹² European Commission, [Proposal for a Council Decision on the signing, on behalf of the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence](#), COM/2016/0111 final - 2016/063 (NLE).

women is a form of discrimination on the ground of sex³⁹³. It is particularly relevant in that Article 19 TFEU was one of the legal bases for the Council Decision on the conclusion by the EU of the United Nations Convention on the Rights of Persons with Disabilities (CRPD)³⁹⁴.

Next steps

The next step in the accession process is the ratification of the Istanbul Convention by the EU, which will bring full effect to the Convention. In order to ratify, the Council of the EU must adopt decisions on the conclusions of the Convention. The decisions are subject to the consent of the European Parliament.

On 4 March 2016, the Commission adopted a proposal for a Council Decision on the conclusions of the Convention, and the European Parliament approved it without amendment on 12 September 2017³⁹⁵. The proposal must now be adopted by the Council of the EU. Once adopted, the Convention will be binding on the EU.

3.2. Consequences of accession for the EU

The **two** main consequences of the EU accession to the Istanbul Convention will be:

- The **EU and its Member States** will be **legally bound** by the Convention;
- EU law will be under **scrutiny** with respect to its compliance with the Convention.

Legally binding

Article 216 TFEU established that agreements concluded by the EU are binding on both the EU and on its Member States. The CJEU confirmed that once international agreements concluded by the EU enter into force, they form **an integral part of EU law**³⁹⁶. The Istanbul Convention would thus become part of EU law, within the limits of the EU competence.

The two Council Decisions on the signature of the Convention authorised the signing of the Convention by the EU with regard to matters related to judicial cooperation in criminal matters and asylum and non-refoulement. Considering the wording of the Council Decisions on the signing, the EU would only bind itself in relation to the above mentioned **two areas**. Arguably, the Convention would become part of EU law **within those limitations**.

The obligations imposed on the EU by the Convention are limited by EU competence, in accordance with the **principle of conferral**. This principle implies that the EU can only act within the limits of the competences conferred by the Treaties to attain their objectives³⁹⁷. In addition, exercise of EU competence is conditional on the **principles of subsidiarity and proportionality**. Under those principles, the EU may only act insofar as the objectives of the actions cannot be sufficiently achieved by the Member States and should not go

³⁹³ De Vido, S., 2017, '[The Ratification of the Council of Europe Istanbul Convention by the EU: A Step Forward in the Protection of Women from Violence in the European Legal System](#)', *European Journal of Legal Studies*, Vol.9, pp.69-102.

³⁹⁴ European Commission, [Council Decision of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities](#), OJ L 23, 27.1.2010.

³⁹⁵ European Commission, [Proposal for a Council Decision on the conclusion, by the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence](#), COM(2016) 109 final, 4.3.2016.

³⁹⁶ CJEU, Case 181/73, *Haegeman v Belgian State*, [1974], ECR 1974 -00449.

³⁹⁷ Article 5 TEU.

beyond what is necessary to achieve the Treaties' objectives. The implementation of the Istanbul Convention will also be governed by those principles.

In accessing the Convention, the EU will be required to **adopt** the necessary legislative and other measures and **implement** 'effective, comprehensive and coordinated policies encompassing all relevant measures to prevent and combat all forms of violence covered by the scope of this Convention'³⁹⁸. The EU will also need to allocate adequate resources for the implementation of those policies.

Through the Council Decisions, the EU has already established the direction and extent of its implementing actions. It will ensure that the EU acquis on criminal procedural rights and substantive law, as well as asylum and non-refoulement, are in line with the Istanbul Convention. In addition, the EU will need to **examine whether new legal and policy instruments should be adopted** at EU level, or whether Member States are better placed to achieve the objectives set out in the Istanbul Convention with respect to those areas.

It could be argued that the EU should take action to harmonise the legal definitions and sanctions for some forms of violence against women that qualify as serious crime and have sufficient cross-border elements. This could be the case for **FGM**, which is by nature a transnational phenomenon³⁹⁹.

Forced marriage is a form of violence that is particularly fit for EU intervention, in view of its implications for asylum and immigration law, free movement, protection orders, mutual recognition and victim support⁴⁰⁰.

Another area of potential EU legislative actions would be **victims' rights**. The Victims' Rights Directive already establishes strong standards for crime victims applicable to victims of violence against women and domestic violence. A closer analysis should be carried out on whether or not the existing EU legal framework is sufficient to address the particular needs of victims of violence against women, in line with the obligations set out by the Convention. While the Victims' Rights Directive acknowledges the specific needs of victims of gender-based violence, it does not address all of the relevant aspects for victims of violence against women. In fact, an analysis of the Directive from a gender perspective suggests that it does not optimally address the needs of violence against women and that, even where implemented precisely by Member States, it may not benefit these victims⁴⁰¹.

The adoption of an **EU Strategy** on violence against women would be another type of EU action required for the implementation of the Istanbul Convention. Such a strategy would aim to support Member States' actions, as well as proposing EU level action to combat violence against women, through implementing EU legislation, funding, awareness-raising or research⁴⁰².

The experience of the accession of the EU to the Convention on the Rights of Persons with Disabilities (CRPD) and its subsequent implementation provides some indications of the EU

³⁹⁸ Article 7 of the Istanbul Convention.

³⁹⁹ EIGE, 2013, [Female genital mutilation in the European Union and Croatia](#).

⁴⁰⁰ FRA, 2014, [Addressing forced marriage in the EU: legal provisions and promising practices](#); Psaila, E., Leigh, V., Verbari, M., Fiorentini, S., Dalla Pozza, V. and Gomez, A., 2015, [Forced Marriage from a Gender Perspective](#), European Parliament.

⁴⁰¹ Spurek, S., 2016, [An analysis of the Victims' Rights Directive from a gender perspective](#), EIGE.

⁴⁰² De Vido, S., 2017, 'The Ratification of the Council of Europe Istanbul Convention by the EU: A Step Forward in the Protection of Women from Violence in the European Legal System', *European Journal of Legal Studies*, Vol.9, pp.69-102.

approach to implementing international human rights instruments. Contrary to the Istanbul Convention, the CRPD required regional organisations to submit a declaration of the extent of their competence with respect to matters governed by the CRPD⁴⁰³. In the absence of such a declaration, the Council Decisions provide some indications of the extent of EU competence. However, uncertainties remain on the extent to which the EU will remain limited by the legal bases of the Council Decisions, considering the potential for broader EU competence in this area.

Following accession to the CRPD, the EU adopted a **Code of Conduct** to set out cooperation arrangements between the Council, the Member States and the Commission for the implementation of the Convention⁴⁰⁴. A similar code would likely be adopted to establish arrangements for the implementation and monitoring of the Istanbul Convention.

As a result of being part of EU law, **Member States** will also be bound to comply with the Convention once it becomes part of EU law. The CJEU clarified that Member States must thus adopt appropriate measures to implement the Convention by virtue of their duties under EU law⁴⁰⁵.

The **CJEU** will have **jurisdiction** in interpreting the Convention via preliminary rulings and deciding on infringement cases. The Commission will be competent to bring proceedings against Member States for violation of the Istanbul Convention insofar as it has become part of EU law⁴⁰⁶.

Lastly, the Istanbul Convention could have some direct effect, in that individuals could invoke and enforce the Convention to the extent that it confers rights on citizen and that it fulfills certain criteria, i.e. the provisions with direct effect should set precise and unconditional requirements⁴⁰⁷.

Scrutiny

A second consequence will be the placing of EU law under **scrutiny** by the Council of Europe with respect to its compliance with the Istanbul Convention. In its accession to the Convention, the EU will be bound by its monitoring mechanism.

As a Party to the Convention, the EU framework and implementation of the Convention will be reviewed by GREVIO and the Committee of the Parties. Based on the GREVIO report and conclusions, the Committee of the Parties will formulate recommendations to the EU (see Section 2.4). While the recommendations will not be legally binding, they can prove effective in exercising pressure to align with the Convention and can provide direction as to how the EU can better implement the Convention and combat violence against women.

EU monitoring framework

Under Article 10 of the Convention, the EU will need to designate or establish one or several **coordination bodies**, which will be entrusted with the 'coordination,

⁴⁰³ [Article 44](#) of the Convention on the Rights of Persons with Disabilities and its Optional Protocol adopted by the United Nations General Assembly on 13 December 2006, [A/RES/61/106](#).

⁴⁰⁴ [Code of Conduct between the Council, the Member States and the Commission setting out internal arrangements for the implementation by and representation of the European Union relating to the United Nations Convention on the Rights of Persons with Disabilities](#), OJ C 340, 15.12.2010.

⁴⁰⁵ CJEU, Case 239/03, *Commission v France*, (2004), ECR 2004-09325; Craig, P. and De Burca, G., 2015, *EU law, text, cases and materials*, sixth edition, Oxford, p.356.

⁴⁰⁶ Article 258 TFEU; Craig, P. and De Burca, G., 2015, *EU law, text, cases and materials*, sixth edition, Oxford, p.371.

⁴⁰⁷ Craig, P. and De Burca, G., 2015, *EU law, text, cases and materials*, sixth edition, Oxford, pp.362-363.

implementation, monitoring and evaluation of policies and measures to prevent and combat all forms of violence covered by this Convention'. The coordination and monitoring tasks of the designated EU body/bodies will naturally be limited to matters pertaining to **EU competence**, given that the EU's accession to the Convention is limited to matters related to asylum and non-refoulement, and to judicial cooperation in criminal matters (see Section 3.1.2). As the Convention provides for parliamentary involvement in monitoring - stipulating that national parliaments must be invited to participate in the monitoring of implementation measures⁴⁰⁸, a similar role is to be envisaged for the European Parliament.

The EU coordinating and monitoring mechanism for the application of the Convention is yet to be established. However, the European Parliament Resolution of 12 September 2017 already gives clear indications of the European Parliament's opinion on the procedure to be followed, the actors to be involved and their respective tasks⁴⁰⁹.

In its resolution, the European Parliament requested the Commission, the Council and Member States to take into account a series of recommendations. The European Parliament recommended, in particular, the designation of an **EU Coordinator** who, upon ratification of the Convention, will act as the Union's representative to the Council of Europe Committee of the Parties. The EU Coordinator will also have responsibility for the coordination, implementation, monitoring and evaluation of the measures and policies adopted to prevent and combat violence against women and girls⁴¹⁰. The **European Parliament** further requested that after the EU's accession, it will itself be '**fully engaged** in the monitoring process of the Istanbul Convention' and called for the drafting of a **code of conduct** to govern the cooperation between the EU and its Member States for matters related to the Convention's implementation⁴¹¹. Agreement for the code of conduct, according to the European Parliament, should also involve civil society organisations, especially those who work to promote and protect women's rights⁴¹².

The establishment of such an EU coordinating and monitoring mechanism is not unprecedented, as the Istanbul Convention will not be the first international human rights instrument to be ratified by the EU itself. It has already acceded to the **CRPD**, which, like the Istanbul Convention, establishes a body monitoring its implementation (the Committee on the Rights of Persons with Disabilities) and calls for Parties to promote, protect and monitor the implementation of its provisions⁴¹³. The **EU framework** established for the promotion and monitoring of the CRPD in matters of EU competence⁴¹⁴ **sets a precedent** and could provide useful guidance on the design of similar mechanisms to oversee and ensure the effective application of the Istanbul Convention.

Following the accession of the CRPD, the Council endorsed the proposal by the Commission for an **EU Framework to promote, protect and monitor** the implementation of the CRPD in matters of EU competence, in addition to the national monitoring mechanisms⁴¹⁵.

⁴⁰⁸ Article 70 of the Convention.

⁴⁰⁹ [European Parliament Resolution of 12 September 2017 on the proposal for a Council decision on the conclusion, by the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence](#), P8_TA-PROV(2017)0329.

⁴¹⁰ [European Parliament Resolution of 12 September 2017 on the proposal for a Council decision on the conclusion, by the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence](#), P8_TA-PROV(2017)0329, para.9(g).

⁴¹¹ *Ibid.*, para.9(h).

⁴¹² *Ibid.*

⁴¹³ Committee on the Rights of Persons with Disabilities, [Questions and answers](#).

⁴¹⁴ European Commission, DG Employment, Social Affairs & Inclusion, [EU Framework for the UN Convention on the Rights of Persons with Disabilities](#).

⁴¹⁵ [Note on the set up of the EU-level framework required by Article 33.2 of the UN Convention on the Rights of Persons with Disabilities](#).

Its mandate covers areas related to EU competence and is, in essence twofold: firstly, it promotes, protects and monitors implementation in the areas where the Member States have transferred competence to the EU; and secondly, it performs the same tasks with respect to the implementation of the CRPD by the EU institutions themselves (e.g. to monitor how EU institutions apply the CRPD in relation to their employees)⁴¹⁶.

The **EU Framework for the CRPD** is comprised of the Commission, the European Ombudsman, the European Parliament's Petition Committee (PETI), FRA and the European Disability Forum (EDF), each of whom has competence in relation to promotion of the CRPD, protection of individuals against breaches of the CRPD by the EU institutions or by Member States when implementing EU law and monitoring implementation⁴¹⁷. For instance, the Commission is invited to encourage exchange of good practices and mutual learning through engaging stakeholders, organising events and training, and providing financial support to NGOs working on the rights of disabled persons⁴¹⁸.

The European Parliament has a crucial role in protection through **PETI**, which can hear petitions from any EU citizen on matters falling within the EU's field of activity and which directly affect them⁴¹⁹. PETI may also hear petitions concerning EU legislation, and it can issue reports and resolutions⁴²⁰. Monitoring tasks are shared among the European Ombudsman (monitors implementation by EU institutions), the Commission (monitors compliance with the CRPD by Member States when implementing EU law) and the EDF, which independently and systematically monitors the EU's implementation of the CRPD through its proposed legislation and policies⁴²¹. The European Parliament also participates in monitoring the CRPD, through the adoption of implementation reports, oral questions and resolutions⁴²².

It is important to clarify that, compared to the accession of the EU to the CRPD, EU accession to the Istanbul Convention **is more limited**. The decisions to sign the Convention limited accession to matters of asylum and judicial cooperation on criminal matters, and not to all matters within EU competence. Any code of conduct governing cooperation and division of competences between the EU institutions, the EU and its Member States, as well as any potential EU Framework for the Istanbul Convention, should closely reflect the EU's competence in respect of the Convention. However, the establishment and operation of the EU Framework for the CRPD can arguably be an important model of a forum involving different institutions and targeting not only monitoring, but also matters related to the CRPD's promotion and protection of individuals.

⁴¹⁶ *Ibid.*

⁴¹⁷ European Commission, DG Employment, Social Affairs & Inclusion, [EU Framework for the UN Convention on the Rights of Persons with Disabilities](#).

⁴¹⁸ European Commission, DG Employment, Social Affairs & Inclusion, [EU Framework for the UN Convention on the Rights of Persons with Disabilities – Promotion](#).

⁴¹⁹ European Commission, DG Employment, Social Affairs & Inclusion, [EU Framework for the UN Convention on the Rights of Persons with Disabilities – Protection](#).

⁴²⁰ [Note on the set up of the EU-level framework required by Article 33.2 of the UN Convention on the Rights of Persons with Disabilities](#), p. 3.

⁴²¹ European Commission, DG Employment, Social Affairs & Inclusion, [EU Framework for the UN Convention on the Rights of Persons with Disabilities – Monitoring](#).

⁴²² *Ibid.*

4. CONCLUSIONS AND RECOMMENDATIONS

The Istanbul Convention aims to eradicate violence against women and domestic violence in Europe, establishing such eradication as a fundamental condition for gender equality. By adopting a legally binding instrument on violence against women, the Council of Europe and its Member States affirm that violence against women constitutes a violation of women's fundamental rights and recognise that 'violence affects not only women adversely, but society as a whole'.

The Convention establishes obligations in respect of four key pillars: integrated policies; prevention of all forms of violence; protection of victims; and prosecution of perpetrators.

The EU has taken steps towards its own accession to the Istanbul Convention, signing the Convention on 13 June 2017. Discussions are continuing at the Council of the European Union on concluding the Convention.

Once acceded to, the Istanbul Convention will become an integral part of EU law within the limits of EU competence on the matters regulated by the Convention. The Istanbul Convention is a mixed agreement, in that it covers areas falling under EU and Member State competence, thus requiring implementation from both.

This section presents conclusions on the progress made by Member States towards ratification and implementation of the Istanbul Convention based on national level research carried out for this study. Conclusions are also drawn on the consequences of EU accession to the Convention. Some policy recommendations are also suggested, focusing on the potential role of the European Parliament in monitoring implementation of the Istanbul Convention.

4.1. Conclusions

Research for this study permits the following conclusions to be drawn:

- **National level**

Ratification

As of October 2017, more than half of the EU Member States have ratified the Istanbul Convention. In most remaining Member States, the ratification process is underway and steps have been taken to align their legal and policy framework with the Convention. In some Member States, legislative amendments are a prerequisite to the ratification, thus justifying the delay in the process. Research shows that in four Member States (Greece, Hungary, Lithuania and Slovakia), political considerations present greater challenges to progress.

Once the EU has acceded to the Convention, **Member States will be required to apply the Convention when implementing EU law**, irrespective of whether or not they themselves have ratified it. This may become problematic, however, if some Member States are not parties to Convention. The absence of ratification by some Member States could lead to inconsistent protection for women across the EU, in particular for those matters falling outside of EU competence. For the rights and obligations falling under EU

shared competence, where the EU has not yet adopted implementing acts and other measures, there is also a risk that the Convention will not come into effect for those Member States which have not ratified it.

Adaptation of national legislation

The Istanbul Convention requires the adoption of legislative and policy measures to prevent and combat all forms of violence covered by the Convention. These include the criminalisation of psychological violence, stalking, physical violence, sexual violence (including rape), forced marriage, FGM, forced abortion, forced sterilisation and sexual harassment.

Most Member States which had ratified by September 2017 have adapted their national legislation either through various amendments or through the adoption of specific legislation. Approaches to aligning with the Convention vary significantly across the Member States.

Of the 14 Member States examined for this study, only nine have a specific offence for forced marriage and eight have a specific offence for FGM (which is, instead, often criminalised as a form of bodily harm). The lack of a specific offence criminalising certain forms of violence creates a risk of excluding elements of the gender aspect of those forms of violence and reducing the perceived seriousness of such crimes. It may also hinder adequate criminal responses and sanctions. The lack of a specific offence is frequently linked to a lack of data collection, reducing the visibility of these forms of violence in policy-making.

Different approaches across the EU jeopardise the effectiveness of the implementation of the Istanbul Convention and the protection afforded across the Member States. EU action to harmonise definitions and sanctions in line with the Convention would ensure consistent implementation across the EU. Such action is, however, limited to the areas of EU competence, particularly the requirement for a cross-border dimension. Arguably, this requirement could be met for the offence of forced marriage.

Policy

State Parties to the Convention must adopt policy measures forming a coordinated and holistic response to violence against women. Those measures should cover all forms of violence listed in the Convention.

Most Member States have adopted strategic policy documents framing their policies on combatting and preventing violence against women. Such policy approaches vary: some Member States have adopted action plans to combat most forms of violence against women, while others specifically address one or two forms of violence, such as domestic violence. This raises the question of whether or not Member States' policy measures adequately address all forms of violence, and whether their approaches to violence against women are sufficiently holistic. Lastly, while some Member States have adopted national action plans continuously for many years, ensuring continuity of policy action, others are not systematically adopting follow-up plans. In light of these gaps, EU action could bring further added value in the long-term. The **adoption of an EU strategy on violence against women** could support stronger policy commitments across the EU.

Practical implementation

The Istanbul Convention requires not only policy and legislative changes, but their subsequent and ongoing implementation, including allocation of adequate resources. The Convention specifically provides for practical actions that effectively prevent such violence and protect and support its victims, including the setting up of general and specialist support services, awareness-raising activities, shelters and helplines.

In all Member States, women victims of violence have recourse to general and/or **specialist support services**, shelters or helplines. However, few such services are specialised in violence against women, and the services are not always adequate in either numbers or resources to meet demand. For example, data suggest a 38% shortfall in the minimum number of shelter places, with only four countries exceeding the minimum number of shelter places specified by the Convention. While some Member States have certain specialist services in place for certain forms of violence, such as domestic violence, they are not specifically targeted at women, and victims of other forms of violence are not met with specialist support.

Data on the prevalence of **sexual harassment** in the EU show that one in five women experiencing unwelcome touching, hugging and kissing since the age of 15, making the lack of specialist support services for this form of violence in Member States even more striking. Professional women are particularly vulnerable to sexual harassment. A 2014 FRA survey indicates that approximately 75% of women in a professional capacity or in top management jobs have experienced sexual harassment in their lifetime. Considering the strong EU competence on sexual harassment in employment, EU action on the issue seems a necessary outcome of EU accession to the Istanbul Convention.

Monitoring

In order to ensure effective implementation, the Istanbul Convention establishes a monitoring mechanism, comprising an expert group (GREVIO) and a Committee of the Parties. Each State Party must also appoint a coordinating body responsible for coordination, implementation, monitoring and evaluation of policies and measures at national level.

Each State Party must report to GREVIO on its implementation of the Convention. The GREVIO evaluation reports for Austria and Monaco provide useful insights into its interpretation of the Convention. In these reports, GREVIO encouraged national authorities to establish dedicated specialist support services for women victims of all forms of violence, to supplement legislation with measures ensuring effective access to victims' rights, and to criminalise all acts of violence in accordance with the definitions of offences established in the Convention.

In addition, the Convention requires the collection of **disaggregated statistical data** on all of the forms of violence against women it covers. A wide variety of data are collected in the Member States, from prevalence data (through surveys) to data on the use of public services by victims (such as the police, social services and health institutions), and on judicial implications. Data collection raises many issues, with some key gaps:

1. Lack of compilation of data on violence against women at national level from all relevant sectors, especially from health institutions.
2. Lack of recording of victim information as statistical data by judicial authorities – no information on violence against women cases can be retrieved.
3. General lack of data collection on FGM, forced marriage, forced abortion/sterilisation.

4. Lack of publication of detailed data on violence against women using coherent definitions and categories across sectors; lack of publication of data from different sectors on a single website or in one overarching report.
5. Lack of storage of data in electronic databases that allow for various denominators and different units of measurement to be combined.

Member States make considerable efforts to conduct surveys on violence against women or to include this topic in more general surveys. Few Member States, however, carry out these nationwide surveys at defined intervals. Regularly scheduled surveys are essential if trends are to be analysed and data used to assess the effects of national policies and programmes.

- **EU level**

EU competence to implement the Istanbul Convention

The main outcome of EU accession to the Istanbul Convention is that, once concluded, the Convention will form an integral part of EU law. However, the EU can only bind itself to the extent of its competence. In relation to the Istanbul Convention, the EU can take action to support, coordinate and supplement Member State activities in the areas of education, training and judicial cooperation on crime prevention. The Istanbul Convention obligations also apply to several areas of shared competence, within which both the EU and Member States may act. Once the EU has acted, however, Member States may no longer act in keeping with the principle of shared competences. Areas of shared competence comprise the EU *acquis* in criminal law, victims' rights, cross-border cooperation and immigration and asylum, but also in non-discrimination, consular protection, data protection, sexual harassment in employment, and access to goods and services.

The Council authorised the signature of the Istanbul Convention through the adoption of two decisions using legal bases related to two specific areas: 1) criminal procedural rights within the limits of Article 82(2) and substantive law within the limits of Article 83(1); and 2) asylum and non-refoulement within the limits of Article 78(2). The Council's intention seems to be to restrict the extent to which the EU is bound by the Istanbul Convention. These decisions bring some uncertainties in respect of the future scope of EU action on implementation of the Istanbul Convention, in particular in areas of EU competence not covered by the Council Decisions' legal bases, such as sexual harassment in employment, for example.

As most EU competence falls within **shared competence**, the delimitation of what exactly it is that falls within EU action and what falls under Member States' action remains a grey area. Consequently, there is a strong need to **establish coordination arrangements** between Member States and the EU for effective implementation of the Istanbul Convention. Following accession to the CRPD, the EU adopted a Code of Conduct, setting out cooperation arrangements between the Council, the Member States and the Commission for implementation of the CRPD. A similar arrangement could be usefully envisaged for implementation and monitoring of the Istanbul Convention.

Some aspects of the Istanbul Convention are already reflected in the existing EU framework. The Victims' Rights Directive, for example, establishes rights for victims. However, such an instrument has not been adopted to implement the Convention. While the Victims' Rights Directive acknowledges the specific needs of victims of gender-based violence, it does not address all of the relevant aspects for victims of violence against women. An analysis of the Directive from a gender perspective suggests that it does not

optimally address the needs of violence against women and that, even where implemented precisely by Member States, it may not benefit these victims⁴²³. Similarly, Council Directive 2004/80/EC requires all EU countries to have a compensation scheme for victims of violent intentional crime committed on their territories. However, it is unclear whether it covers all forms of violence against women listed under the Convention. There is thus a need to **ensure that the EU acquis sufficiently reflects the requirements of the Istanbul Convention**.

Setting up an EU monitoring mechanism under the Convention

Following its accession, EU law will come under the scrutiny of the Council of Europe with respect to its compliance with the Convention and, like all Parties, it will be required to report to GREVIO. The EU will thus need to appoint a coordinating body and to set up a monitoring mechanism.

European Parliament Resolution of 12 September 2017 proposed the designation of an EU Coordinator for the coordination, implementation, monitoring and evaluation of the measures and policies adopted to prevent and combat violence against women and girls. The establishment of such an EU monitoring mechanism is not unprecedented, with a similar mechanism established after EU accession to the CRPD, which also required the establishment of body monitoring its implementation. An EU framework has been established for promotion and monitoring of the CRPD in matters of EU competence, which may provide useful guidance on the design of a similar mechanism to oversee and ensure effective application of the Istanbul Convention.

Lastly, the Istanbul Convention foresees the involvement of national parliaments in monitoring the implementation measures. Similarly, Parties to the Convention must submit GREVIO's reports to their national parliaments. Following EU accession, therefore, the European Parliament should play a role in monitoring implementation of the Convention by the EU. The drafters of the Convention considered the involvement of national parliaments an important element in implementing the Convention, in light of the frequent need for legislative changes. The **European Parliament can have a key role** in maintaining the issue of violence against women on the EU political agenda.

4.2. Recommendations

The following recommendations provide suggestions for the role of the European Parliament in monitoring implementation of the Istanbul Convention.

- **European Parliament involvement in the monitoring mechanism**

The European Parliament should be fully engaged in the monitoring mechanism for implementation of the Istanbul Convention (as foreseen by the Convention itself), and should be consulted at all stages of the monitoring process.

The EU Coordinator (or other relevant coordinating body appointed) should report to the European Parliament on its monitoring activities, and seek its input on the direction the Coordinator should take for the implementation, monitoring and evaluation of policies and measures to prevent and combat violence against women.

⁴²³ Spurek, S., 2016, [An analysis of the Victims' Rights Directive from a gender perspective](#), EIGE.

Lastly, as foreseen by the Istanbul Convention, GREVIO's evaluation report on the EU must be presented to the European Parliament, which should then assess its own role in implementing GREVIO's conclusions and the recommendations of the Committee of the Parties. The European Parliament should ensure a follow-up on the implementation of the conclusions of GREVIO and recommendations of the Committee of the Parties.

- **Proactive role in monitoring**

The European Parliament should play a proactive role in calling for the appropriate legislative changes required to ensure that the EU legal framework is fully aligned with the Istanbul Convention.

To this end, the European Parliament should lead a thorough review of the existing EU acquis and the changes required to align with the Istanbul Convention. An analysis of the Victims' Rights Directive from a gender perspective has revealed that some provisions do not sufficiently account for the specific nature of gender-based violence. The Directive, as well as other relevant instruments, should also be reviewed for their alignment with the Convention.

The EU should pay particular attention to GREVIO's reports and use these as guidance on how best to implement the Convention. Of particular relevance is GREVIO's promotion of the need for dedicated specialist support services for women victims of all forms of violence, to ensure effective access to victims' rights, and to criminalise all acts of violence in accordance with the definitions established by the Convention.

The European Parliament should also call for better data collection at EU level on violence against women. EIGE's recommendations on improving data collection on violence against women are of particular relevance here⁴²⁴. These recommendations address the main gaps in administrative data collection, in particular on intimate partner violence, rape and femicide, but are equally valid for other forms of sexual violence. Implementation of these recommendations would also facilitate monitoring of the Istanbul Convention by the European Parliament, as these data could, in the long-term, populate some monitoring indicators. Additionally, the European Parliament should promote the collection of data on FGM and forced marriage, two types of violence for which limited data exist.

Data collection should form part of any European Parliament monitoring activities related to the Istanbul Convention, building on previous research by EIGE and the CoE and integrating their approaches.

- **Coordination within the European Parliament**

The European Parliament should establish a coordination mechanism within its own institution in order to gather all relevant expertise for comprehensive, coordinated and holistic implementation of the Convention, in line with its Article 7.

Such a monitoring mechanism should involve all of the relevant Committees, including the FEMM, LIBE, JURI, PETI and EMPL Committees.

⁴²⁴ EIGE, 2017, [Recommendations for the EU to improve data collection on violence against women](#).

As the Istanbul Convention covers areas of shared competence between the EU and Member States, coordination with national authorities on the implementation of the Convention is crucial. The European Parliament should use its established coordination mechanism with national parliaments to gather their views on effective implementation of the Convention. In this respect, the European Parliament can take the lead in exchanging best practice in legislative and policy changes to align with the Convention.

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ANNEX 1 – AVAILABILITY OF REMEDIES AND COMPENSATION

Member State	Availability of remedies and compensation for all forms of violence?
Austria	<p>Yes</p> <p>Measures against perpetrators are mainly covered by police law and civil law. The Violence Protection Act (Gewaltschutzgesetz) contains further specific regulations in cases of domestic violence which are enshrined in three different acts: the Security Police Act, the Enforcement Order and the Austrian Civil Code (Sicherheitspolizeigesetz, SPG, Exekutionsordnung EO, und dem Allgemeinen Bürgerlichen Gesetzbuch, ABGB). Together, they constitute the Violence Protection Act (Gewaltschutzgesetz). Its provisions are applicable to all Austrians and protect women who experience violence caused by their partner or who are threatened with such violence, as well as their children. Whether or not a person wishes to file a complaint, police measures (expulsion and prohibition of entry) and civil protection (interim injunctions) are available to persons affected by violence⁴²⁵. Civil law is important on questions of custody and visitation rights (§138 ABGB, Austrian Civil Code). Aspects of possible violence are considered by family judges in their assessment of the best interests of the child, which includes the notion of 'reducing the risk to a child to suffer violence or to witness violence inflicted upon people close to them' and the importance of 'ensuring contact with both parents to build a steady relationship'⁴²⁶.</p> <p>Compensation from the perpetrator can be claimed by victims of violence, either in criminal proceedings or through separately initiating civil law remedies⁴²⁷.</p>
Belgium	<p>Yes</p> <p>Articles 4 and 5bis of the Code of Criminal Procedure enables any victim to become a civil party to the criminal proceedings and to ask that civil remedies be decided by the criminal jurisdiction.</p> <p>Victims may also obtain civil remedies under the general civil remedies provision, Article 1382 of the Civil Code (Burgelijk Wetboek/ Code civil), according to which any act by the perpetrator that caused any damage must be remedied. This provision can be used for all forms of violence against women, provided the damage, the fault of the perpetrator and the causal link between the fault and the damage can be demonstrated.</p> <p>The crown prosecutor can order a temporary barring order in case of serious and imminent threat to the safety of victims of domestic violence⁴²⁸. The victims may also request such a barring order, in writing or orally before the Family Tribunal. There are no restraining orders as such in Belgian civil law, but the criminal judge may set as a condition for release that the offender refrain from contacting the victim or coming near the victim or his/her residence.</p> <p>To obtain compensation from the perpetrator, victims can either file a civil action in the criminal proceedings or file a separate civil action for compensation before the civil courts. Where criminal proceedings are initiated during the civil action, the civil</p>

⁴²⁵ Violence against women, City of Vienna website, available at: <https://www.wien.gv.at/menschen/frauen/stichwort/gewalt/recht/gewaltschutzgesetz.html>.

⁴²⁶ First GREVIO report on Austria, December 2016, p.38.

⁴²⁷ *Ibid.*, p.37.

⁴²⁸ Act of 15 May 2012 on temporary barring orders in cases of domestic violence (*Loi du 15 mai 2012 relative à l'interdiction temporaire de résidence en cas de violence domestique/ Wet van 15 mei 2012 betreffende het tijdelijk huisverbod in geval van huiselijk geweld*).

Member State	Availability of remedies and compensation for all forms of violence?
	process will be suspended until a final criminal decision is taken by the prosecutor or criminal court. Compensation will be awarded based on Article 1382 of the Civil Code, according to which any act by the perpetrator that caused any damage must be remedied.
Denmark	<p>Yes</p> <p>The possibility of issuing restraining orders or exclusion orders is present for each form of violence against women. A restraining order can be issued for a period of up to five years, while an exclusion order can be issued for up to one year. It is possible to extend the orders if the legal requirements are upheld. The orders take effect when they are served on the perpetrator⁴²⁹. A request for a restraining order or an exclusion order is not subject to any fee. A restraining order or exclusion order is an administrative decision made separately from the potential criminal case against the perpetrator. However, the intentional violation of a restraining order or an exclusion order is punishable by a fine or imprisonment for a term not exceeding two years.</p> <p>Financial compensation can be claimed through civil law or through the so-called adhesion process.</p>
Spain	<p>Yes</p> <p>Spain enacted Law 27/2003, of July 31, regulating the Order for the protection of victims of domestic violence, which reforms the Law on Criminal Procedure⁴³⁰. This order is available in cases where there are clear indications of domestic violence crimes and the victim is objectively at risk. Essentially, the judge orders the victim's protection through the adoption of civil or criminal precautionary measures, in addition to activating the necessary assistance and social protection measures, by referral of the Protection Order to the Coordination Points of the Autonomous Communities.</p> <p>Criminal remedies include deprivation of liberty, restraining order, prohibition of communication, prohibition to return to the place of the crime or residence of the victim, and withdrawal of weapons or other dangerous objects. Civil measures include attribution of the use and enjoyment of the dwelling, regime of custody, visits and communication with the children, provision of food, and measures to protect minors to avoid danger or prejudice. Inclusion in the protection order means that victims of gender violence can request civil measures before the end of the criminal procedure, or without starting a specific civil procedure. Once the criminal procedure has concluded, the victim can request modification of the measures through a civil procedure, as appropriate.</p> <p>In addition, Law 4/2015 of the Statute of the Victim, regarding minors, introduces the possibility for the criminal judge to adopt certain civil measures (Article 544 Law of Criminal Procedure). Such civil measures include the suspension of parental authority of one of the parents, suspension of custody, establishment of a regime of supervision in the exercise of parental authority, guardianship or any other protection or support function in respect of the minor or person and suspension or modification of the regime of visits or communication, where it is necessary to guarantee the</p>

⁴²⁹ Law 112/2012 Act on restraining orders, exclusion orders or eviction (*lov om tilhold, opholdsforbud og bortvisning*).

⁴³⁰ Law 27/2003, of July 31, regulating the Order for the protection of victims of domestic violence (*Ley 27/2003, de 31 de julio, reguladora de la Orden de protección de las víctimas de la violencia doméstica*) BOE núm. 183, de 1 de agosto de 2003.

Member State	Availability of remedies and compensation for all forms of violence?
	<p>protection of the minor or the person with judicially modified capacity.</p> <p>Spain regulates the right to claim compensation in Articles 100 et seq. of the Criminal Procedure Law⁴³¹. The commission of an offence imposes an obligation to repair the damage caused. This civil responsibility includes restitution of the object, repair of the damage, and compensation for material and moral harm. When the victim exercises a civil action (to demand this civil responsibility) in the criminal process, the judgment will determine the civil responsibility for the physical, psychological or moral damage caused to the victim, in addition to the criminal sanctions imposed. However, the victim might reserve this right and take the civil action in a different process before the civil courts.</p>
France	<p>Yes</p> <p>French courts may issue an urgent protection order against the perpetrator, which may be extended. The victim can provide any type of evidence (medical certificate, pictures of the injuries, testimony from individuals). Law 2010-769⁴³² introduced this protective order (ordonnance de protection) issued by a family judge, which permits the protection of the victim through various measures, including the following: i) evicting the violent spouse, partner, or co-habitant and rendering a decision on which party will be financially responsible for the family housing; ii) prohibiting the violent spouse from seeing certain individuals and from owning a firearm or any other type of weapon; iii) allowing the victim to remain where she/he is domiciled; iv) ruling on the custody of the children; v) prohibiting a child to leave French territory without the authorisation of both parents; and vi) awarding legal aid to the victim.</p> <p>Victims of violence can file for compensation directly before the Criminal Court⁴³³. There is also an option to request financial compensation separately from the Civil Court⁴³⁴.</p>
Italy	<p>Yes</p> <p>Legal measures available to women victims of violence include precautionary coercive measures, i.e. measures limiting the personal freedom of the alleged perpetrator, e.g. removal from the family home (Article 282bis, Criminal Procedural Code); prohibition to move close to places frequented by the victim (Article 282ter, Criminal Procedural Code); home detention (Article 284, Criminal Procedural Code); and precautionary custody in prison (Article 285, Criminal Procedural Code). According to Article 280 of the Criminal Procedural Code, precautionary coercive measures can be issued only for criminal offences punishable with life imprisonment or with imprisonment over three years. However, this limitation does not apply if certain criminal offences, including sexual violence and persecutory acts, are prosecuted. Therefore, the coercive measures can theoretically apply to all forms of violence against women foreseen by the Istanbul Convention.</p> <p>After the adoption of Law 119/2013⁴³⁵, the situations in which the perpetrator can be monitored by electronic tagging were extended to aggravated personal injuries and</p>

⁴³¹ Royal Decree of September 14, 1882, which approves the Criminal Procedure Law (*Real decreto de 14 de septiembre de 1882 por el que se aprueba la Ley de Enjuiciamiento Criminal*), BOE» núm. 260, de 17 de septiembre de 1882.

⁴³² Law no. 2010-769 of July 9, 2010 on violence specifically against women, domestic violence and the impact on children (*Loi n° 2010-769 du 9 juillet 2010 relative aux violences faites spécifiquement aux femmes, aux violences au sein des couples et aux incidences de ces dernières sur les enfants*).

⁴³³ Les violences conjugales, Le Point Sur Femmes/Egalite, available at: http://www.egalite-femmes-hommes.gouv.fr/wp-content/uploads/2011/03/Lutte-contre-Violences-conjugales_version-2012.pdf

⁴³⁴ French Civil Code (*Code civil*), Article 515-9.

Member State	Availability of remedies and compensation for all forms of violence?
	<p>to personal injuries prosecuted ex officio, as well as to aggravated threat (Article 612(2), Criminal Code) against the wife or cohabitant.</p> <p>In addition, a warning is an administrative act which can be issued where there are indications of a certain criminal offence. According to Article 3 of Law-Decree 93/2013, in the case of physical assault or personal injuries committed within a domestic violence and, on the condition that such information has been received in non-anonymous form, the police commissioner can issue a warning ex officio against the perpetrator. This also applies to stalking, although only at the express request of the victim⁴³⁶.</p> <p>Finally, according to Law 119/2013, the ordinary residence permit of a foreign perpetrator convicted of family abuse, personal injuries, FGM, sexual violence and persecutory acts committed within domestic violence, can be revoked.</p> <p>According to Article 185 of the Criminal Code, the perpetrator of any criminal offence which caused material or non-material harm, must compensate the victim. This guarantee, apart from including any damage caused by the criminal offence and those set out by law, extends to non-material damage caused by the violation of fundamental rights set out by the Constitution, i.e. the right to health (Article 32, Constitution); guarantees concerning the family (Articles 2, 29 and 30, Constitution); the rights to reputation, name, privacy, and fundamental rights concerning the dignity of the person (Articles 2 and 3, Constitution). Compensation of non-material damage could include biological damage (i.e. damage caused to the health and physical or psychological integrity of the victim of a criminal offence), moral damage (i.e. the physical and/or psychological pain suffered by the victim of a criminal offence), and existential damage (i.e. disturbance caused to the normal life of the victim of a criminal offence)⁴³⁷.</p>
Malta	<p>Yes</p> <p>Courts in Malta are empowered to issue protection, restraining or treatment orders when dealing with cases of domestic violence. These orders are governed by the Criminal Code (Article 412C – protection orders; Article 412D – treatment orders and Article 382A – restraining orders). Protection and restraining orders may impose restrictions or prohibitions on the accused, for example to approach or follow the movements of the victim, restricted access to the premises in which the victim resides/ works/ frequents etc., prohibition to contact the victim. Treatment orders require the accused person to submit to treatment, subject to the conditions that the court lays down in the order⁴³⁸.</p> <p>The Civil Code also offers some remedies to victims of domestic violence during civil proceedings⁴³⁹. In particular, when a spouse applies for separation, and domestic violence is involved, the case is appointed for hearing within four days. The civil courts may also issue protection and treatment orders (see above) during lawsuits for personal separation.</p> <p>Every offence in Malta may give rise to a criminal action and a civil action (Article 3 of the Criminal Code). The civil action is prosecuted before the courts of civil</p>

⁴³⁵ Law-Decree 93/2013 concerning urgent provisions on security and against gender-based violence, as well as on civil protection and appointing provinces' commissioners, transformed into Law 119/2013.

⁴³⁶ Law 38/2009 concerning urgent measures on public security and against sexual violence, as well as against persecutory acts.

⁴³⁷ Oliva, U., 2016, *Il risarcimento del danno non patrimoniale da violenza di genere*, Studio Legale Bona – Oliva & Associati.

⁴³⁸ Chapter 9, [Criminal Code](#), 10 June 1854.

⁴³⁹ Chapter 16, Civil Code, 11 February 1870.

Member State	Availability of remedies and compensation for all forms of violence?
	jurisdiction, and compensation for the damage caused by the offence is thereby demanded. The Criminal Code also empowers criminal courts to issue directions for restitution or compensation. Article 28H provides that when making an order for suspended sentence, the court may include a direction obliging the offender to make restitution to the injured party or to pay compensation for loss, damages or other injury or harm caused by or through the offence. This only applies where there is an order for suspension of sentence. A suspended prison sentence can be given only where the court has awarded imprisonment of maximum two years for an offence.
the Netherlands	<p>Yes</p> <p>An injunction on contacting or approaching the victim is available as a remedy for offences that are punishable with a sentence of two to four years, and where the offender's sentence has been partly suspended⁴⁴⁰. All offences covered by the Convention are potentially subject to such an injunction. A barring order forbidding a person from entering their home can be imposed in situations where the person's presence in the house is deemed dangerous to one or more persons living there⁴⁴¹.</p> <p>The victim has a right to claim compensation for damage incurred as a consequence of a criminal offence⁴⁴². When the offender is ordered to pay compensation by the judge, the Central Fine Collection Agency (Centraal Justitieel Incassobureau, CJIB) requires that the victim be paid directly⁴⁴³.</p>
Poland	<p>Yes</p> <p>In accordance with the Civil Code, any person who has caused damage is obliged to repair it and, in the case of personal injury, the court may grant the injured person an appropriate sum to compensate for the harm suffered.</p> <p>Compensation is a means to repair the suffering or humiliation suffered by the injured person, and consequently the non-pecuniary damage resulting from the act of torture. Under the current legislation and case law, injustice is identified primarily with negative experiences, i.e. it must be a consequence of violation of personal property, not just material property. An injured party may sue in both civil and criminal proceedings. To obtain redress in civil proceedings, the injured person must bring an action against the person who committed the domestic violence. During such proceedings, the court must determine, based on the circumstances of the case, the extent to which the injured party should be compensated, if at all. Since the harm caused is not of a financial nature, it must be converted into a specific monetary sum. The court setting the amount of compensation must determine the extent of the harm suffered by the injured person, taking into account loss of health, mental disorders such as anxiety, depression, reduced mood, pain, social difficulties, the circumstances of the offence (for instance how the perpetrator has acted; the effects of a sexual offence, such as pregnancy, sexually transmitted infection or subsequent intimate sexual intercourse resulting from an act committed) etc.⁴⁴⁴.</p>
	Yes

⁴⁴⁰ Article 14c, Criminal Code (*Wetboek van Strafrecht*).

⁴⁴¹ Act on temporary barring orders (*Wet tijdelijk huisverbod*).

⁴⁴² Article 51, Code of Criminal Procedure (*Wetboek van Strafvordering*).

⁴⁴³ 'How can I get my damage compensated?', Public Prosecution website, available at: <https://www.om.nl/onderwerpen/slachtoffers/krijg-schade-vergoed/>

⁴⁴⁴ Compensation for harm caused by domestic violence (*Zadośćuczynienie za krzywdę wyrządzoną przemocą domową*) Paweł Borowski website, available at <http://www.blog-adwokatpawelborowski.pl/zadoszczynienie-za-krzywde-wyrzadzona-przemoca-domowa/>.

Member State	Availability of remedies and compensation for all forms of violence?
Portugal	<p>When a criminal proceeding is pending, a judge may impose a coercive measure on the defendant, forbidding all contact with the victim⁴⁴⁵. Such a measure is temporary by nature and will be revoked at the moment of the defendant's conviction or acquittal. In domestic violence cases, the judge may also impose another coercive measure, prohibiting the defendant from entering the victim's home, even when the domicile is shared⁴⁴⁶. In domestic violence cases, criminal law also foresees the possibility for the judge to determine an ancillary sentence against the perpetrator, prohibiting contact with the victim for six months to five years. A similar ancillary sentence may be imposed in the case of stalking, but is limited to six months to three years⁴⁴⁷. The prohibition of contact gives the public prosecutor or the victim sufficient grounds to start civil proceedings to rule on child custody.</p> <p>Alongside criminal remedies, there are also civil remedies <i>stricto sensu</i>. However, those tend to be very rare in practice. Nevertheless, any person may start proceedings to obtain judicial measures that prevent an unlawful and direct threat to personal rights⁴⁴⁸. The Court will decide after hearing the defendant and may compel him/her to undertake a given behaviour. Breaching the Court's order will merely have civil consequences, namely a penalty payment in case of non-compliance with the terms of the decision.</p> <p>To claim compensation, victims must present an autonomous civil request within the criminal proceedings. Such a request shall describe the damages suffered, which can be of a moral or material nature. Additional evidence, in addition to that referring to the crime itself, may be presented for assessment by the Court. The Court's decision will be two-fold: on the one hand, acquitting or condemning the accused (if the latter, also imposing a sentence); on the other hand, deciding on compensation for the victim. There is, however, a specific regime for domestic violence. According to the case law for this type of crime, the victim shall always be granted compensation from the perpetrator, irrespective of whether or not she has presented an autonomous request to that effect. The compensation shall be granted <i>ope legis</i> except where the victim has expressly renounced it⁴⁴⁹.</p>
Romania	<p>Yes</p> <p>A person whose life, physical or mental integrity or freedom is endangered by an act of violence by a member of the family may request the lower court (<i>judecătorie</i>), deciding civil and criminal cases, to issue a protection order to eliminate the danger⁴⁵⁰. Through a protection order, the court can impose the following obligations on the perpetrator: leave the family house, allow the children and victim back to the family house, maintain distance from the victim, the children and their relatives, stay away from certain areas and places, abstain from contact with the victim, surrender all weapons to the police, and undergo treatment (psychological or other).</p>

⁴⁴⁵ Decree-Law 78/87 Penal Proceeding Code (*Lei n.º 78/87, de 17 de Fevereiro: Código do Processo Penal*), 17 de Fevereiro de 1987, 34th and last amendment by Law 94/2017, 23 August 2017.

⁴⁴⁶ Law 112/2009 Legal regime applicable to prevention of domestic violence and to the protection and assistance to its victims (*Lei n.º 112/2009, de 16 de Setembro: Regime jurídico aplicável à prevenção da violência doméstica, à protecção e à assistência das suas vítimas*), 16 September 2009, 6th and last amendment by Law 24/2017, 24 May 2017.

⁴⁴⁷ Decree-Law 48/95 'Penal Code' (*Decreto-Lei n.º 48/95, de 15 de Março: Código Penal*), 15 March 1995, 45th and last amendment by Law 94/2017, 23 August 2017.

⁴⁴⁸ Decree-Law 47344/66 'Civil Code' (*Decreto-Lei n.º 47344/66, de 25 de Novembro: Código Civil*), 25 November 1966, 73rd and last amendment by Law 43/2017, 14 June 2017.

⁴⁴⁹ Decision of the Court of Appeal of Coimbra (*Acórdão da Relação de Coimbra de 2 de Julho de 2017*) 2 July 2017.

⁴⁵⁰ Law 217/2003 on Preventing and fighting domestic violence (*Legea 217/2003 pentru prevenirea și combaterea violenței în familie*), Official Gazette 205/2014, Article 23.

Member State	Availability of remedies and compensation for all forms of violence?
	<p>Compensation can be requested through a general remedy, by which any victim can seek civil remedies against any person and legal entity, including a public authority, to cover any damage resulting from the fact that that person/entity did not respect a law or general rule, or hindered the rights or interest of another person through any action or omission⁴⁵¹.</p>
Slovenia	<p>Yes</p> <p>According to Article 60 of the Police Tasks and Powers Act, the police can issue a restraining order if there is a reasonable suspicion that a person has committed a criminal or a minor offence involving elements of violence, or if a person has been caught in the commission of such criminal or minor offence and there are reasons to suspect that this person is about to endanger the life, personal safety or freedom of a person with whom he is or was in a close relationship within the meaning of the provisions of the Criminal Code and the Family Violence Prevention Act. Police officers may issue a restraining order prohibiting the person in question from approaching a place or person. The restraining order also includes a prohibition of harassment through means of communication.</p> <p>In cases of criminal offences, the court may decide to use restraining measures, which include prohibition on approaching a specific place or person, regular reporting to a police station, security, house arrest and detention. Among these measures, the most often used in cases of domestic violence are prohibition of approaching a certain place or person and detention⁴⁵².</p> <p>According to the Family Violence Prevention Act, the court can issue a temporary restraining order if the perpetrator of the violence has caused bodily harm or the victim has suffered damage to her health or otherwise unlawful interference with her dignity or other personal rights. This restraining order prohibits entry into the apartment in which the victim lives, staying in a certain vicinity of the apartment in which the victim lives, approaching the place where the victim is usually located (workplace, school, kindergarten, etc.), contact with the victim in any way, including different means of communication, and also through third parties, establishment of any meeting with the victim, publication of personal data of the victim, documents from judicial and administrative files and personal records relating to the victim, or the sale or release of a dwelling jointly used with the victim⁴⁵³.</p> <p>Compensation can be claimed from the perpetrator under general rules for restitution of damages set in the Obligations Code or through the criminal proceeding⁴⁵⁴. Victims can submit compensation claims during the criminal procedure or they can start a civil procedure to claim damages upon conclusion of the criminal case.</p>
Finland	<p>Yes</p> <p>Restraining orders are available to prevent an offence against life, health, liberty or privacy or a threat of such an offence or some other kind of severe harassment. As a prerequisite, there must be reasonable grounds to assume that the person against whom the order is applied for is likely to commit an offence against the life, health,</p>

⁴⁵¹ Law 287/2009 on The Civil Code, (*Legea nr. 287/2009 privind Codul Civil*) 505/2011, Article 1349.

⁴⁵² Obran, N., 2014, *Violence against women - legal pathways to save lives of women and children: practical guide through judicial and administrative procedures*, Association for nonviolent communication (*Nasiljenadženskami - prav(n)e poti v varnoživljenježensk in otrok: praktičnivođnikposodnih in upravnihpostopkih: Društvozenasilnokomunikacijo*), p.49.

⁴⁵³ Article 19 of the Family Violence Protection Act.

⁴⁵⁴ The victim may pursue a compensation claim against the offender during the course of criminal proceedings.

Member State	Availability of remedies and compensation for all forms of violence?
	<p>liberty or privacy of the person who feels threatened or in some other way severely harassed by this person. A specific kind of restraining order – the inside-the-family restraining order – may be imposed if the person against whom the order is applied is likely to commit such an offence against the person who feels threatened, and the imposition of the order is not unreasonable considering the facts of the case, including the severity of the impending offence and the circumstances of the persons living in the same household. An inside-the-family restraining order requires the subject to vacate the premises in which he or she and the protected person live on a permanent basis, and to desist from returning.</p> <p>Victims of violence can seek compensation from perpetrators under the Tort Liability Act⁴⁵⁵. Chapter 1 of the Act sets out a general liability for damages for persons who intentionally or negligently cause injury or damage to another, unless it otherwise follows from the provisions of the Act. Damages under the Act include compensation for personal injury and damage to property. Where the injury or damage has been caused by an act punishable by law, or in the exercise of public authority, or in other cases where there are especially weighty reasons, damages shall also constitute compensation for economic loss that is not connected to personal injury or damage to property. A person who has suffered a bodily injury or other personal injury shall be entitled to damages to cover medical costs and the other costs arising from the injury, as well as loss of income and maintenance, pain and suffering, invalidity and other permanent handicap.</p> <p>Damages under the Tort Liability Act also comprise damages for the anguish arising from an offence against liberty, honour, domestic peace or private life, or from discrimination through a punishable act or from intentional or aggravated interference with personal integrity, or from intentional or grossly negligent violations of a person's human value in a comparable way. The compensation will be determined taking into account the relationship between the victim and the perpetrator⁴⁵⁶.</p>
Sweden	<p>Yes</p> <p>The Non-Contact Order Act covers four types of non-contact orders: a restraining order, an extended restraining order, a specially extended restraining order and a domestic exclusion order.</p> <p>A victim of a criminal offence (i.e. coercion, threats, stalking, physical assault, rape, sexual assault, forced marriage, FGM, and sexual harassment) can make a claim for compensation against the perpetrator for personal injuries (psychological or physical), loss of or damage to property, or violation of personal integrity. The victim may choose to make the claim during criminal proceedings or in subsequent civil law proceedings⁴⁵⁷.</p>

⁴⁵⁵ Tort Liability Act 412/1974 (*Vahingonkorvauslaki*).

⁴⁵⁶ Sections 1, 2 and 6 of Chapter 5 of the Tort Liability Act.

⁴⁵⁷ GREVIO, 2017, *Report submitted by Sweden pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Baseline Report)*, GREVIO/Inf(2017)9, p.55.

ANNEX 2 – SPECIALISED LEGISLATION ON VIOLENCE AGAINST WOMEN IN THE MEMBER STATES

MS	Specialised legislation on violence against women in the Member States
AT	The Protection Against Violence Act ⁴⁵⁸ contains specific regulations on domestic violence which can be also found in the Security Police Act ⁴⁵⁹ , the Enforcement Act ⁴⁶⁰ , as well as in the Civil Code ⁴⁶¹ . Furthermore, the Asylum Act ⁴⁶² sets out provisions on gender-based violence, stipulating that female gender mutilation and forced marriage constitute relevant acts of persecution for the granting of refugee status. Civil law is of relevance with regard to custody and visitation rights (§138 ABGB, Civil Code). Civil remedies exist against the state to ensure due diligence (Act on the Liability of Public Bodies ⁴⁶³). Also, victims can claim compensation under the Law on Victims of Crime ⁴⁶⁴ . Finally, it is possible to take disciplinary measures within the framework of the Civil Service Act ⁴⁶⁵ against state officials "who abuse their authority or display gender stereotypical, misogynist, sexist or racist behaviour or beliefs in relation to the victims they are supposed to serve".
BE	Violence against women is addressed in Belgium through various offences of the Criminal Code and specialised legislation in relation to protection against domestic violence. Specialised legislation in relation to protection against domestic violence. The main Acts specialised are: Criminal Code ⁴⁶⁶ : in particular Articles 377 and 410 which create an aggravating circumstance for physical violence, including manslaughter, and sexual violence committed by an intimate partner; Act of 24 November 1997 aiming at fighting violence within the couple ⁴⁶⁷ : this law requires the crown prosecutor to automatically seize itself of a case of intimate partner physical violence; Act of 28 January 2003 ⁴⁶⁸ aiming at allocating the family home to the spouse or legal cohabitant victim of physical violence acts by his/her partner and completing Article 410 of the Criminal Code: under this law the victim can request to live in the family home in case of sexual or physical intimate partner violence; Act of 15 May 2012 on the temporary barring order in case of domestic violence ⁴⁶⁹ ; Act of 15 June 2012 on the sanctioning of the non-respect of temporary barring orders in case of domestic violence ⁴⁷⁰ ; Act of 10 May 2007 to combat discrimination between women and men ⁴⁷¹ .
BG	Law on Protection against Domestic Violence ⁴⁷² from 2005 is the most often used instrument for protection of victims in cases of violence against women when. It provides for effective remedy for

⁴⁵⁸ Protection Against Violence Act (*Gewaltschutzgesetz, GeSchG*), Federal Gazette 40/2009.

⁴⁵⁹ Security Police Act (*Sicherheitspolizeigesetz, SPG*), Federal Gazette BGBl. Nr. 566/1991 idF BGBl. Nr. 662/1992 (DFB).

⁴⁶⁰ Enforcement Act (*Exekutionsordnung, EO*), Federal Gazette RGBl. Nr. 79/1896.

⁴⁶¹ Civil Code (*Allgemeines Bürgerliches Gesetzbuch, ABGB*), Federal Gazette JGS Nr. 946/1811.

⁴⁶² Asylum Act (*Asylgesetz, AsylG*), Federal Gazette BGBl. Nr. 76/1986 (WV).

⁴⁶³ Act on the Liability of Public Bodies (*Amtshaftungsgesetz, AHG*), Federal Gazette BGBl. Nr. 20/1949 idF BGBl. I Nr. 194/1999 (DFB).

⁴⁶⁴ Law on Victims of Crime (*Verbrechensopfergesetz, VOG*), Federal Gazette BGBl. Nr. 288/1972.

⁴⁶⁵ Civil Service Act (*Beamten-Dienstrechtsgesetz*), Federal Gazette BGBl. Nr. 333/1979.

⁴⁶⁶ [Criminal Code](#) (*het Strafwetboek/ le Code pénal*).

⁴⁶⁷ [Act of 24 November 1997 aiming at fighting violence within the couple](#) (*Wet strekkende om het geweld tussen partners tegen te gaan/ Loi visant à combattre la violence au sein du couple*).

⁴⁶⁸ [Act of 28 January 2003 aiming at allocating the family home to the spouse or legal cohabitant victim of physical violence acts by his/her partner and completing Article 410 of the Criminal Code](#) (*Wet tot toewijzing van de gezinswoning aan de echtgenoot of aan de wettelijk samenwonende die het slachtoffer is van fysieke gewelddaden vanwege zijn partner en tot aanvulling van artikel 410 van het Strafwetboek/ Loi visant à l'attribution du logement familial au conjoint ou au cohabitant légal victime d'actes de violence physique de son partenaire, et complétant l'article 410 du Code pénal*).

⁴⁶⁹ [Act of 15 May 2012 on the temporary barring order in case of domestic violence](#) (*Loi du 15 mai 2012 relative à l'interdiction temporaire de résidence en cas de violence domestique/ Wet van 15 mei 2012 betreffende het tijdelijk huisverbod in geval van huiselijk geweld*).

⁴⁷⁰ [Act of 15 June 2012 on the sanctioning of the non-respect of temporary barring orders in case of domestic violence](#) (*Wet tot bestrafing van de overtreding van het tijdelijk huisverbod/ Loi du 15 juin 2012 tendant à réprimer le non-respect de l'interdiction temporaire de résidence en cas de violence domestique*).

⁴⁷¹ [Act of 10 May 2007 to combat discrimination between women and men](#) (*Loi tendant à lutter contre la discrimination entre les femmes et les hommes/ Wet ter bestrijding van discriminatie tussen vrouwen en mannen*).

⁴⁷² [Law on Protection against Domestic Violence](#) (*Закон за защита от домашното насилие*), first promulgated on 29 March 2005, State Gazette issue 25/2005, last amendments promulgated on 3 July 2015, State Gazette, issue 50/2015.

MS	Specialised legislation on violence against women in the Member States
	women victims of violence: protection orders within 24 hours after submitting the application and then the courts are obliged to hear and decide the cases within one month.
CY	Law on domestic violence ⁴⁷³ comprised of 40 articles and establishes a comprehensive framework for prevention and victims' protection.
CZ	Violence against women is dealt in the Czech Republic mostly through the Criminal Code and the Anti-Discrimination Act as well as a specialised legislation on domestic violence. In March 2006, the Czech Republic adopted specific legislation for protection against domestic violence ⁴⁷⁴ .
DE	The Violence Protection Act ⁴⁷⁵ establishes an additional legal framework dealing with domestic violence and the protection of victims thereunder. No distinction is made between the victim being male or female. To receive damages and compensation for the harm suffered, victims need to bring forward claims under the civil law regime. Civil proceedings are processed parallel to criminal proceedings and victims can often participate to the criminal proceedings through an accessory complaint (<i>Nebenklage</i>). Under criminal and civil procedural law, female victims have access to the same protection, assistance and support as male victims. German law distinguishes between minor and adult victims whereby minor victims enjoy specific protection, i.e. in case of sexual violence.
DK	Although there is no specific law on violence against women in Denmark, many forms of violence against women are covered by general provisions of the Criminal Code ⁴⁷⁶ .
EE	Although there is no specific legislation on violence against women in Estonia, forms of violence are covered by the Criminal Code ⁴⁷⁷ .
EL	No separate act aiming at the prevention and combat of violence against women. Since 2006, there is, however, a comprehensive law on domestic violence ⁴⁷⁸ . The Act sets the definition of domestic violence and, importantly, establishes specific 'domestic violence offences' which are sometimes sanctioned more strictly compared to similar offences enshrined in the Criminal Code.
ES	Although the Criminal Code was modified previously to include crimes on domestic violence, the main legal text on violence against women in Spain is Organic Law 1/2004 , of December 28, on Measures of Integral Protection against Gender Violence. The law establishes rights for women who are victims of gender violence and measures to prevent, punish and eliminate violence against women and give assistance to women and their children who are victims of that violence (Law 26/2015, of July 28, on the modification of the system for the protection of children and adolescent modified Organic Law 1/2004 in order to consider minors as direct victims of gender violence). The Organic Law includes the partial reform of other norms, including the Criminal Code, to include special crimes, the Organic Law 6/1985.
FI	In the context of criminal offence, it is worth noting the conciliation carried out under the Conciliation Act ⁴⁷⁹ , which regulates conciliation in criminal cases, including violence against women. Other potentially relevant legislation includes the Equality Act ⁴⁸⁰ , which has its objective the prevention of gender-based discrimination and the promotion of equality between men and women. The Act excludes the private sphere of life from its application, but is relevant for e.g. workplace discrimination.
FR	There is not a single piece of legislation covering violence against women in France but specific criminal provisions making certain types of violence illegal. Since 2012, the French legislation has been

⁴⁷³ Law 119(I)/2000 'Domestic Violence (Prevention and Protection of Victims) Law' (*N. 119(I)/2000 – o περί Βίας στην Οικογένεια (Πρόληψη και Προστασία Θυμάτων) Νόμος του 2000*), Government Gazette Annex I(I), No. 3420, 21/7/2000.

⁴⁷⁴ Act No. 135/2006 Coll., which amends some acts in the area of protection from domestic violence ("Act on Domestic Violence"), with effect from 1 January 2007.

⁴⁷⁵ Violence Protection Act, *Gesetz zum zivilrechtlichen Schutz vor Gewalttaten und Nachstellungen 'Gewaltschutzgesetz'* (GewSchG) of 11 December 2001, BGBl. I S. 3513.

⁴⁷⁶ Law 977/2017 '[Criminal Code](#)' (*bekendtgørelse af straffeloven*).

⁴⁷⁷ Penal Code (*Karistusseadustik*), RT I 2001, 61, 364 ... RT I, 26.06.2017, 69.

⁴⁷⁸ Act No 3500/2006, 'Addressing domestic violence and other provisions', (*Νόμος 3500/2006 Για την αντιμετώπιση της οικογενειακής βίας και άλλες διατάξεις*), Government Gazette No. 232/A/24.10.2006.

⁴⁷⁹ Act on Conciliation in Criminal and Certain Civil Cases (*Laki rikosasioiden ja eräiden riita-asioiden sovittelusta*) 1015/2005.

⁴⁸⁰ Act on Equality between Women and Men (*Laki naisten ja miesten välisestä tasa-arvosta*) 609/1986.

MS	Specialised legislation on violence against women in the Member States
	considerably reinforced regarding sexual harassment, female genital mutilation and protection of women victims of violence including domestic violence.
HU	In Hungary, there is no specialised legislation addressing violence against women. Instead the different forms of violence against women are regulated by general legislation. The most relevant rules are set out in the Hungarian Criminal Code ⁴⁸¹ (<i>Büntető Törvénykönyv</i>), which codifies in one law all relevant substantial criminal law provisions.
HR	Current Law on Protection Against Domestic Violence ⁴⁸² , and new Law on Protection Against Domestic Violence (in force from 1 January 2018) ⁴⁸³ .
IE	No specialised legislation on violence against women. The Domestic Violence Act 1996 ⁴⁸⁴ as amended by the Domestic Violence (Amendment) Act 2002 provides for the protection of a spouse or any children or other dependent persons ⁴⁸⁵ .
IT	Section I of Law-Decree 93/2013 ⁴⁸⁶ (Articles 1-5bis), converted into Law 119/2013 , aims to combat and prevent gender-based violence. Law 119/2013 implemented the Istanbul Convention by introducing new aggravating circumstances in the Criminal Code , and eventually strengthening the mechanisms of protection of violence against women's victims.
LT	Despite the fact that Lithuania does not have specific regulation on violence against women, in 2011, Lithuania took a whole new approach to VAW (one of its forms - domestic violence) with the adoption of the Law on Protection against Domestic Violence ⁴⁸⁷ . It shall be noted that this law is gender neutral and is being applied for both women and men victims of gender-based violence.
LU	There is no specialised legislation addressing violence against women as such in Luxembourg, but there are various criminal provisions covering specific forms of violence (relating to physical, sexual and psychological violence). Violence against women is therefore mainly dealt with through the Criminal Code. In 2003, Luxembourg adopted Law on domestic violence which established an advisory body, acting under the supervision of the Ministry of Equal Opportunities, which examines the implementation and enforcement of the relevant legislation ⁴⁸⁸ .
LV	In Latvia violence against women is dealt mostly through the Constitution, the Civil Code and the Criminal Code. Latvia does not have any specific anti-discrimination law or gender equality law.
MT	Malta adopted the Domestic Violence Act ⁴⁸⁹ in 2006. Substantive provisions relevant for violence against women are however included in other acts, and notably the Criminal Code ⁴⁹⁰ , the Equality for Men and Women Act ⁴⁹¹ and the Civil Code ⁴⁹² . Through the provisions of the Criminal Code and the Equality for Men and Women Act all forms of violence against women covered by the Istanbul Convention are considered offences. The Civil Code on its part contains provisions on restraining and protection orders and on compensation, that victims of criminal offences (and thus the offences covered by the Convention) can invoke. Malta criminalises all forms of violence covered by the Convention.

⁴⁸¹ [Act C of 2012 on the Criminal Code](#) (2012. évi C. törvény a Büntető Törvénykönyvről).

⁴⁸² Law on Protection Against Domestic Violence, Official Gazette 137/09., 14/10. and 60/10, (*Zakon o zaštiti od nasilja u obitelji*), Narodne novine, 137/09, 14/10. i 60/10).

⁴⁸³ Law on Protection Against Domestic Violence (in force from 1 January 2018), Official Gazette (Narodne Novine), N70/2017.

⁴⁸⁴ [Domestic Violence Act 1996 \(No.1 of 1996\)](#).

⁴⁸⁵ [The Domestic Violence \(Amendment\) Act 2002](#) (No. 30 of 2002).

⁴⁸⁶ Law-Decree 93/2013 'concerning urgent provisions on security and against gender-based violence, as well as on civil protection and appointing provinces' commissioners' (*Disposizioni urgenti in materia di sicurezza e per il contrasto della violenza di genere, nonché in tema di protezione civile e di commissariamento delle province*), Government Gazette 191/2013.

⁴⁸⁷ [Law on Protection against domestic violence](#) (Lietuvos Respublikos Apsaugos nuo smurto artimoje aplinkoje įstatymas), No. XI-1425, 26 May 2011.

⁴⁸⁸ Law of 8 September 2003 on domestic violence, amended in July 2013.

⁴⁸⁹ [Domestic Violence Act](#), Act XX of 2005, as amended by Acts X of 2013 and VII of 2015, 28th February 2006.

⁴⁹⁰ [Criminal Code](#), 10th June 1854.

⁴⁹¹ [Equality for Men and Women Act](#), Act I of 2003, as amended by Legal Notice 427 of 2007; and Acts IV of 2009, IX of 2012, XVIII of 2014, and VII and XI of 2015, 9th December 2003.

⁴⁹² [Civil Code](#), 11th February 1870.

MS	Specialised legislation on violence against women in the Member States
NL	Violence against women is incriminated under several punishable offences in the Dutch Criminal Code. Other relevant legislation includes Act against forced marriage ⁴⁹³ , which stipulates that the Netherlands shall not recognise marriages of persons under 18 years old concluded abroad; Act on temporary barring orders ⁴⁹⁴ enabling women to temporarily bar partners from entering their home.
PL	Poland has no specific legislation on violence against women as defined in the Istanbul Convention. Violence against women is, partially, approached through the context of domestic violence in Law on the Prevention of Domestic Violence ⁴⁹⁵ from 2005 (amended in 2010).
PT	Specific legislation addressing woman victims of violence is in force since 1991: Law of Protection of Women Victims of Violence ⁴⁹⁶ . It reinforces legal mechanisms of protection of women victims of violent crimes, whenever the commission of such crimes results from gender discrimination (SOS helpline desk, the creation of specialised services to take statements and complaints from women victims within criminal police organs, or even the provision of a state obligation to raise awareness through public campaigns towards a mentality shift on the social role of women). Specialised legislation on prevention, protection and assistance of victims of domestic violence ⁴⁹⁷ . It aims namely to foresee the rights of domestic violence victims, to set forth public policies, to establish new measures and mechanisms of protection (including coercion measures to apply to the perpetrator), to foster the creation and development of civil society associations that specifically address domestic violence, to ensure the provision of adequate healthcare services, or to foresee the retrospective analysis of homicide resulting from domestic violence and related judicial decisions. For criminal and civil purposes, however, violence against women is dealt with through the criminal code and through the civil code, respectively.
RO	In Romania, violence against women is mostly addressed through the general lens of domestic violence. There is a special law on domestic violence ⁴⁹⁸ and also domestic violence is specifically prescribed in the Criminal Code ⁴⁹⁹ . Romania ratified the Istanbul Convention through a separate Law ⁵⁰⁰ .
SE	Legislation targets especially the protection and support to victims of violence. One such relevant act is the Non-Contact Order Act ⁵⁰¹ . The fundamental objective of this Act is to prevent crimes against, and to increase the security for, individuals who are subject to stalking and harassment . The Act covers four types of non-contact orders: restraining order, extended restraining order, specially extended restraining order and domestic exclusion order.
SI	Violence against women is covered through Criminal and Civil Code, Family Violence Prevention Act ⁵⁰² , Law on Protection against Discrimination ⁵⁰³ , Police Tasks and Powers Act ⁵⁰⁴ , Protection of Public Order Act ⁵⁰⁵

⁴⁹³ Act against forced marriage (*Wet tegenaan huwelijksdwang*), Government Gazette Stb. 2015, 373.

⁴⁹⁴ Act on temporary barring orders (*Wet tijdelijk huisverbod*), Government Gazette Stb. 2008, 484.

⁴⁹⁵ Law 180/1493 'Act of 29 June 2005 on the Prevention of Domestic Violence' (*Ustawa z dnia 29 lipca 2005 r. o przeciwdziałaniu przemocy w rodzinie*), 07/2005.

⁴⁹⁶ Law 61/91 'Law of Protection of Women Victims of Violence' (*Lei n.º 61/91, de 13 de Agosto: Lei de Protecção às Mulheres Vítimas de Violência*), 13 August 1991.

⁴⁹⁷ Law 112/2009 'Legal regime applicable to prevention of domestic violence and to the protection and assistance to its victims' (*Lei n.º 112/2009, de 16 de Setembro: Regime jurídico aplicável à prevenção da violência doméstica, à protecção e à assistência das suas vítimas*), 16 September 2009, amended by several laws.

⁴⁹⁸ Law 217/2003 on 'Preventing and fighting family violence' (*Legea 217/2003 pentru prevenirea și combaterea violenței în familie*), Official Gazette 205/2014

⁴⁹⁹ Law 286/2009 on 'The Criminal Code' (*Legea 286/2009 privind Codul Penal*), Official Gazette 510/2009.

⁵⁰⁰ Law 30/2016 on 'Ratifying The Council of Europe Convention on preventing and combating violence against women and domestic violence' (*Legea 30/2016 pentru ratificarea Convenției Consiliului Europei privind prevenirea și combaterea violenței împotriva femeilor și a violenței domestice*), Official Gazette 224/2016.

⁵⁰¹ GREVIO, '[Report submitted by Sweden pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Baseline Report\): Received by GREVIO on 4 September 2017](#)', GREVIO/Inf(2017)9, 7 September 2017, p. 53. (hereafter in footnote referred to as GREVIO).

⁵⁰² 'Family Violence Prevention Act' (*Zakon o preprečevanju nasilja v družini*), Official Gazette of the Republic of Slovenia, no. 16/08, 68/16, 15 February 2008.

⁵⁰³ Law on Protection against Discrimination (*Закон за защита от дискриминация*) – adopted in 2003, entered into force on 1 January 2004, promulgated in State Gazette issue 86 of 30 September 2003, last amendments in State Gazette issue 33 of 23 April 2016.

MS	Specialised legislation on violence against women in the Member States
SK	Slovakia has no specialised legislation addressing violence against women. The issues concerning various forms of violence against women are dealt within the scope several acts, such as the Criminal Code (Act No. 300/2005 Coll.), the Criminal Procedure Code (Act No. 301/2005 Coll.), the Act on misdemeanours (Act No. 372/1990 Coll.), the Civil Code (Act 40/1964 Coll.), the Civil Procedure Code (Act No. 99/1963 Coll.), the Act on the Compensation of Victims of Violent Criminal Acts (Act No. 215/2006 Coll.) and the Act on Social Services (Act No. 448/2008 Coll.).
UK	UK laws on violence against women reflect the three legal jurisdictions in that state, namely England and Wales, Northern Ireland and Scotland. All three jurisdictions have enacted domestic abuse laws ⁵⁰⁶ .

⁵⁰⁴ 'Police Tasks and Powers Act (*Zakon o nalogah in pooblastilih policije*), Official Gazette of the Republic of Slovenia, no. 15/13, 23/15, 10/17, 8 February 2013.

⁵⁰⁵ 'The Protection of Public Order Act' (*Zakon o varstvu javnega reda in miru*), Official Gazette of the Republic of Slovenia no. 70/06, 6 July 2006.

⁵⁰⁶ [Domestic Violence, Crime and Victims Act 2004](#), [Domestic Abuse \(Scotland\) Bill](#), [Violence against Women, Domestic Abuse and Sexual Violence \(Wales\) Act 2015](#).

ANNEX 3 –RECENT NATIONAL SURVEYS (SECTION 1.2.2)

MS	National prevalence survey(s) on violence against women/ including questions on experienced violence since 2011	link	surveys carried out at regular intervals?
AT	"Violence in the Family and in Close Social Spheres: Austrian Prevalence Study on Violence against Women and Men (2011) (<i>Gewalt in der Familie und im nahen sozialen Umfeld. Österreichische Prävalenzstudie zur Gewalt an Frauen und Männern</i>)"	http://www.oif.ac.at/fileadmin/OEIF/andere_Publikationen/gewaltpraevalenz_2011.pdf	no
BE	Health interview survey (2013) (<i>Enquête de Santé/Gezondheidsenquête</i>)	https://his.wiv-isp.be/fr/Documents%20partages/TR-VIOL_FR_2013.pdf	yes, health surveys (last 2013, next 2018)
BG	Sexual violence against women in Bulgaria (2011) (<i>Сексуалното насилие над жени в България</i>)	http://alpharesearch.bg/bg/socialni_izsledvania/socialni_publicacii/seksualnoto-nasilie-nad-jeni-v-balgariya.746.html	no
CY	Extent, frequency, nature and consequences of domestic violence against women in Cyprus (2012) (" <i>Εκταση, Συχνότητα, Μορφές και Επιπτώσεις της Ενδοοικογενειακής Βίας κατά των Γυναικών στην Κύπρο</i> ", <i>Δρ Μάρθα Αποστολίδου, Δρ Πετρούλα Μαυρικήου</i>)	http://www.familyviolence.gov.cy/upload/research/erevna_2012oct_viol-ag-women_summary_en.pdf	no
CZ	"Economic impacts of domestic violence in the Czech Republic (2012)" (<i>Ekonomické dopady domácího násilí v ČR</i>)	http://www.profem.cz/shared/clanky/68/profem-studie2b-en-web.pdf	no info
DE	Study on health of adults in Germany (2008-2011) (<i>Studie zur Gesundheit Erwachsener in Deutschland</i>)	http://www.rki.de/DE/Content/Gesundheitsmonitoring/Studien/Degs/degs_w1/degs_w1_node.html	no
DK	1)Survey on violence and other forms of criminality (2005-2015) 2)Violence in close relationships in Denmark, Character and consequences of violence among young and the development (2007-2011) (<i>Kærestevold i Danmark, En undersøgelse af omfang, karakter og konsekvenser af volden blandt unge og udviklingen 2007-2011</i>)	1) http://www.dkr.dk/media/8327/offerundersogelse_2015.pdf 2) http://www.sifolkesundhed.dk/upload/kærestevold_20130403_samlet.pdf	Annual victimisation survey (since 2000)
EE	1)Gender equality monitoring (every 4 years, last 2016, 2013) (<i>Soolise võrdõiguslikkuse monitooring</i>) 2) Domestic violence against women and the health of victim. Results of the Estonian Survey 2015 (2016) (<i>Pere- ja naistevastane vägivald ja ohvrite tervis. Ule-eestilise uuringu 2015 tulemused</i>) 3) Estonian Women's Health 2014: sexual and reproductive health, health behaviour, attitudes and use of healthcare services (2014) (<i>Eesti Naiste Tervis 2014</i>) 4) Annual reduced survey of victims of crime (latest: 2013) (<i>Ohvriuuringu</i>)	1) http://www.sm.ee/sites/default/files/content-editors/Ministeerium_kontaktid/Uuringu_ja_analuusid/Sotsiaalsealaldkond/soolise_vordõiguslikkuse_monitooringu_raport_2016.pdf 2) http://media.voog.com/0000/0035/2397/files/Perevågivald%20uuring-%202015%20aruanne.pdf 3) file:///C:/Users/eft/Desktop/usedstre2014_loppraport.pdf 4) http://www.kriminaalpoliitika.ee/et/uuringud-ja-analuusid/ohvriuuringu	<ul style="list-style-type: none"> Gender equality monitoring also includes questions on violence. The survey is conducted every 4 years and within the last five years two reports have been published. Annual reduced survey of victims of

MS	National prevalence survey(s) on violence against women/ including questions on experienced violence since 2011	link	surveys carried out at regular intervals?
			crime, the latest was published in 2013. The latest full survey was conducted in 2009.
ES	Macro victimisation surveys on VAW since 1999, every 4-5 years (<i>Macroencuesta de violencia de género</i>)	http://www.violenciagenero.mssi.gob.es/violenciaEnCifras/macroencuesta2015/home.htm	macro victimisation surveys on VAW since 1999, every 4-5 years
EL	<i>Domestic Violence against Women: First Epidemiological Research in Greece (2002-2003)</i> (Ενδο-οικογενειακή Βία κατά των Γυναικών. Πρώτη Πανελλαδική Επιδημιολογική Έρευνα, Β. Αρτινοπούλου & Ι. Φαρσεδάκης (επιστ. Υπεύθυνοι), Μ. Παπαγιαννοπούλου (συντονίστρια), Α. Ζουλινάκη, Γ. Κατσίκη, Ε. Ξυδοπούλου, Σ. Παπαμιχαήλ)	http://www.kethi.gr/attachments/111_ENDO-OIKOGENEIAKH_BIA_KATA_GYNAIKWN.pdf	no
FI	Finnish national victimisation survey 1980, 1988, 1993, 1997, 2003, 2006, 2009 and 2012. Latest one between September 2012 and February 2013	http://www.optula.om.fi/materia/attachments/optula/julkaisut/verkkokatsauksia-sarja/EQaFYce0V/34_parisuhdevakivalta.pdf http://www.optula.om.fi/materia/attachments/optula/julkaisut/verkkokatsauksia-sarja/5UFBBrKW1f/verkko_28.pdf	Finnish national victimisation survey 1980, 1988, 1993, 1997, 2003, 2006, 2009 and 2012. Latest one between September 2012 and February 2013
FR	1) Victimisation survey — Living environment and security — CVS (annually since 2007) 2) Enquete VIRAGE – Violences et rapports de genre (2015), population survey on VAW	1) https://www.insee.fr/fr/metadonnees/definition/c1877 2) https://virage.site.ined.fr/	Annual victimisation survey (since 2007)
HR	What do we know about economic violence against women? (2011-2012) (<i>Što znamo o ekonomskom nasilju nad ženama?</i> Editors: Željka Markulin, Sanja Sarnavka)	http://babe.hr/hr/sto-znamo-o-ekonomskom-nasilju-nad-zenama/	no
HU	<i>Violence in the family (1999)</i> (Tóth Olga, Erőszak a családban)	http://www.tarki.hu/adatbank-h/kutjel/pdf/a396.pdf	no
IE	<i>National Research by the National Crime Council (2005)</i>	http://www.cosc.ie/en/COSC/Abuse%20Report%20NCC.pdf/Files/Abuse%20Report%20NCC.pdf	no
IT	1)'Violence against women within and outside the family' (2006 and 2015) (<i>La violenza contro le donne dentro e fuori la famiglia</i>) 2)'Stalking on women' (2016) (<i>Stalking sulle donne</i>)	1) https://www.istat.it/it/archivio/161716 2) https://www.istat.it/it/archivio/5348	surveys on VAW produced by ISTAT almost annually; the survey

MS	National prevalence survey(s) on violence against women/ including questions on experienced violence since 2011	link	surveys carried out at regular intervals?
			'violence against women within and outside the family' was already carried out in 2006
LV	Reproductive health of the Latvian population. Situation overview 2003-2011 (<i>Putniņa, A. Latvijas iedzīvotāju reproduktīvā veselība. Pārskats par situāciju 2003.-2011</i>)	http://www.papardeszieds.lv/index.php?option=com_content&view=article&id=311:latvijas-iedzivotju-reproduktivs-veselbas-ptjums&catid=23:petijumi&Itemid=21	no
LT	Women and men in Lithuanian society(2009) (<i>Moterys ir vyrai Lietuvos visuomenėje</i>)	http://lygus.lt/wp-content/uploads/11-MVV-ataskaita-0916-Galutine111.doc	no
LU	Safety Survey (2013) (<i>Enquête sur la Sécurité</i>)	http://www.statistiques.public.lu/fr/enquetes/espace-menages/securite/index.html	no
MT	A nationwide research study on the prevalence of domestic violence against women in Malta and its impact on their employment prospects (2010)	https://secure3.gov.mt/socialpolicy/admin/contentlibrary/Uploads/MediaFile/nationwide_research_study_prevalance_impact_employment_prospects.pdf	no
NL	1) Population Study Sexual Health in the Netherlands (2012) (<i>Bevolkingsstudie seksuele gezondheid in Nederland</i>) 2) Integrated safety monitor (2013) (<i>Integrale veiligheidsmonitor</i>)	1) http://www.rutgerswpf.nl/sites/default/files/TVS%2036-2%20%20Haas%20Seksueel%20grensoverschrijdend%20gedrag_0.pdf 2) http://veiligheidsmonitor.nl/dsresource?objectid=334366	no
PL	1) Violence and conflicts at home (2012) (<i>PRZEMOC I KONFLIKTY W DOMU</i>) 2)Diagnosis of the phenomenon of domestic violence in Poland against women and men. Part I – National research report (2010) (<i>DIAGNOZA ZJAWISKA PRZEMOCY W RODZINIE W POLSCE WOBEC KOBIET I WOBEC MĘŻCZYŹN. CZĘŚĆ I – RAPORT Z BADAŃ OGÓLNOPOLSKICH</i>)	1) http://www.cbos.pl/SPISKOM.POL/2012/K_082_12.PDF 2) http://www.mpips.gov.pl/gfx/mpips/userfiles_public/1-2010_%20Raport-ogolnopolski_K-M_01-03-11.pdf	no
PT	<i>Gender Violence in Portugal: A National Survey of Violence against Women and Men (2007) (Violência e Género: Inquérito Nacional sobre a Violência exercida contra Mulheres e Homens)</i>	http://onvg.fcsh.unl.pt/images/stories/PDFs/livros/violencia%20e%20genero.pdf	no info
RO	Domestic Violence in Romania (2008) (<i>Violența Domestică în România</i>)	n.a.	no

MS	National prevalence survey(s) on violence against women/ including questions on experienced violence since 2011	link	surveys carried out at regular intervals?
SE	1) Swedish Crime Survey (annually since 2006) (<i>Nationella trygghetsundersökningen</i>) 2) Violence and health, a population study on women's and men's exposure to violence and the connection to health (2012) (<i>Våld och hälsa, en befolkningsundersökning om kvinnors och mäns våldsutsatthet samt kopplingen till hälsa</i>) 3) National health survey (bi-annually) 4) Offences in close relationships (2012-2013) (<i>Brott i nära relationer, Brå</i>)	1) https://www.bra.se/bra-in-english/home/crime-and-statistics/swedish-crime-survey.html 2) http://kunskapsbanken.nck.u.se/nckkb/nck/publik/fil/visa/418/NCK-rapport_prevalens_Vald_och_halsa_www.pdf 3) https://snd.qu.se/en/catalogue/study/ext0118 4) http://www.bra.se/download/18.9eaaede145606cc8651ff/1399015861584/2014_8_Brott_i_nara_relationer.pdf	Swedish Crime Survey (annually since 2006) National health survey (bi-annually)
SK	<i>Representative Research on Prevalence and Experience of Women with Violence against Women (violence against women) in Slovakia (2008) (Reprezentatívny výskum výskytu a skúseností žien s násilím páchanom na ženách (VAW) na Slovensku)</i>	http://www.sspr.gov.sk/IVPR/images/IVPR/vyskum/2008/Holubova/SUMMARY.pdf	no info
SI	<i>National Survey on Violence in Private Life and Partnerships (Leskošek, Urek, Zaviršek, (Slovenia) (2010) (Nacionalna raziskava o nasilju v zasebni sferi in v partnerskih odnosih.)</i>	http://www.dlib.si/stream/URN:NBN:SI:DOC-RMYVUR3P/2c3c8ca8-bde4-4a61-b68c-ecf87caa72bd/PDF	no
UK	1) Crime Survey for England and Wales (2014) 2) Scottish Crime and Justice Survey (2011)	1) www.ons.gov.uk/ons/dcp171778_349849.pdf 2) http://www.scotland.gov.uk/Topics/Statistics/Browse/Crime-Justice/crime-and-justice-survey/publications	yes, victimisation surveys

ANNEX 4 –PUBLISHED ADMINISTRATIVE DATA (NON-EXHAUSTIVE LIST)

MS	police (9)	link	justice (9)	link	single location?
AT	police crime reports, annually; GREVIO report	Ministry of Interior 'Crime Report. Statistics and Analysis. 2015', B13-B21.	Ministry of Justice Security Reports, NSO, annually	Ministry of Justice, 'Security Report 2015. Report on the Activities of the Criminal Justice.'	Report to GREVIO: Federal Ministry of Health and Women's Affairs (BMFG) 'First Country Report of Austria to GREVIO', August 2016
BE	police crime statistics	n.a.	publications by Council of Public Prosecutors, Crime Policy Service of the Ministry of Justice, Courts and Tribunal Council	n.a.	no
BG	no	n.a.	annual reports, Prosecutor's Office	http://www.prb.bg/	no
CY	crime statistics, annually	http://www.police.gov.cy/police/polic e.nsf/All/49EC82226F885F18C2257F9300166ABD/\$file/FamilyAbuse%20e ng.pdf	no	n.a.	no
CZ	police headquarters, Czech Statistical Office	n.a.	Statistical Yearbook of Criminality, Ministry of Justice; NSO, gender statistics	http://cslav.justice.cz/InfoData/statistick e-rocenky.html	both published by Statistical Office; however, justice data not by victim gender
DE	police crime statistics	Federal Criminal Police Office (Bundeskriminalamt), section 'PKS 2015- standrad overview victim tables' (PKS 2015 – Standard Übersicht Opfertabellen), table 921 (partners)	Federal Statistical Office of Germany	Federal Statistical Office (Statistisches Bundesamt), 'Special Issue 10 – Jurisdiction Statistics. Prosecution. 2015'	no
DK	police crime statistics and NSO, annually	Danmarks Statistik, webpage on Kriminalitet "Criminality",	NSO	Danmarks Statistik, webpage on Kriminalitet "Criminality",	no
EE	NSO, 'Social life',	http://pub.stat.ee/px-web.2001/I_Databas/Social_life/07Justice_and_security/03Crime/03Crime.asp	NSO, 'Social life',	http://pub.stat.ee/px-web.2001/I_Databas/Social_life/07Justice_and_security/03Crime/03Crime.asp	

MS	police (9)	link	justice (9)	link	single location?
ES	Statistical Yearbook, Ministry of Internal Affairs, annually, government delegation	http://www.interior.gob.es/web/servicios-al-ciudadano/violencia-contra-la-mujer/estadisticas	NSO, administrative units		Government Delegation for Gender-based Violence (<u>Delegación del Gobierno para la Violencia de Género</u>) compiles data from courts, prosecution, health, police
EL	police, NSO	http://www.statistics.gr/el/statistics/-/publication/SJU03/2015	NSO	http://www.statistics.gr/el/statistics/-/publication/SJU03/2015	no
FI	police, specific data set on IPV by Statistics Finland	Data Material	no info		
FR	MIPROF, La lettre de l'Observatoire national des violences faites aux femmes	http://stop-violences-femmes.gouv.fr/IMG/pdf/Lettre_ONVF_8_-_Violences_faites_aux_femmes_principales_donnees_-_nov15.pdf	MIPROF, La lettre de l'Observatoire national des violences faites aux femmes		report on violence against women, includes data from police records, convictions, protection orders and contacts made with social services; produced by <u>MIPROF Mission interministerielle pour la protection des femmes contre les violences et la lutte contre la traite des êtres humains</u>
HR	CSO, Ministry of Interior	Ministry of Interior, Statistics report http://stari.mup.hr/UserDocsImages/statistika/2017/Statisticki%20pregled 2016 2.pdf	Croatians Bureau of Statistics	Croatian Bureau of Statistics, Women and Men in Croatia, 2016, http://www.dzs.hr/Hrv_Eng/menandwomen/men_and_women_2016.pdf	n.a.
HU	Ministry of Interior, CSO	Ministry of Interior	Ministry of Interior, only from Prosecution services	Ministry of Interior	yes, ENYÜBS (see link)
IE	CSO	Central Statistical Office (2007), Interpreting Crime Statistics	Courts service website, annual report of Office of Director of Public Prosecution	Courts Service Ireland, Statistics on Domestic Violence Topic, Office of the Director of Public Prosecutions (2015), Annual Report,	no
IT	ISTAT - Ministry of Interior (Sistema di indagine del Ministero dell'Interno)	http://www.istat.it/it/giustizia-e-sicurezza	integrated data collection system prosecution and courts	http://www.istat.it/it/giustizia-e-sicurezza	ISTAT publishes both police and justice data

MS	police (9)	link	justice (9)	link	single location?
LV	Ministry of Interior, Ministry of Welfare	http://www.lm.gov.lv/upload/dzimumu_lidztiesiba_a/pekinas_zinojums_30012017_1.pdf	no info	n.a.	no
LT	Ministry of Interior	www.bukstipri.lt	Courts	n.a.	no
LU	Cooperation Committee between professionals in the field of the fight against violence	http://www.mega.public.lu/fr/publications/publications-ministere/2017/rapport-comite-violence/index.html	Cooperation Committee between professionals in the field of the fight against violence	http://www.mega.public.lu/fr/publications/publications-ministere/2017/rapport-comite-violence/index.html	yes, annual report on domestic violence; includes data on police interventions, judgements on entry bans and data from social services
MT	crime statistics only on Eurostat; Commission on Domestic Violence	Commission on Domestic Violence (2016), Annual Report.	no	n.a.	annual reports of Commission on Domestic Violence; compiles data from police, health and shelters; different types of violence, but not clear which offenses they include.
NL	Central Bureau for Statistics (CBS); Institute for Social Research	National Statistics Office, Registered Criminality; type of offense, region (grouping 2016) (Geregistreerde criminaliteit; sort misdrijf, region (indeling 2016)	Central Bureau for Statistics (CBS)	standardised categories of crime; no victim gender	every two years since 2006!! Emancipation Monitor ('Emancipatiemonitor') is an bi-annual report on gender inequality; it includes a chapter on violence, with data from police, justice and social services; police data includes reported crimes by victim gender and relationship; source: https://www.scp.nl/Publicaties/Alle_publicaties/Publicaties_2016/Emancipatiemonitor_2016
PL	Statistics Poland, KSIP (National System of Police Information), Blue Card Procedure	Police statistics on domestic violence, http://statystyka.policja.pl/st/wybrane-statystyki/przemoc-w-rodzinie/50863.Przemoc-w-rodzinie.html ,	no	n.a.	no

MS	police (9)	link	justice (9)	link	single location?
PT	Secretariat-General of Internal Affairs	<ul style="list-style-type: none"> Sistema de Segurança Interna, Gabinete do Secretário-Geral (2017). Relatório Anual de Segurança Interna 2016. Available at http://app.parlamento.pt/Paginas/2017/marco/Relatoriodesegurancainter-na-2016.aspx; SGMAI (2016). Domestic Violence 2015 - Annual monitoring report. Available at http://www.sg.mai.gov.pt/Noticias/Documents/Rel%20VD%202015.pdf 	Secretariat-General of Internal Affairs	<ul style="list-style-type: none"> Sistema de Segurança Interna, Gabinete do Secretário-Geral (2017). Relatório Anual de Segurança Interna 2016. Available at http://app.parlamento.pt/Paginas/2017/marco/Relatoriodesegurancainter-na-2016.aspx; SGMAI (2016). Domestic Violence 2015 - Annual monitoring report. Available at http://www.sg.mai.gov.pt/Noticias/Documents/Rel%20VD%202015.pdf 	annual monitoring report on domestic violence - includes detailed police and justice data, available at: https://www.sg.mai.gov.pt/Noticias/Documents/Rel%20VD%202015.pdf
RO	National Statistical Office, National Agency for Equal Opportunities between Women and Men	www.mpublic.ro, "Activity report" section	no, only upon request		
SE	Swedish National Council for Crime Prevention (Bra)	https://www.bra.se/bra/bra-in-english/home/crime-and-statistics/crime-statistics/reported-offences.html	Swedish National Council for Crime Prevention (Bra)		Swedish National Council for Crime Prevention (Bra) publishes data both from police and justice sources
SK	Statistical Office 'gender Equality', Coordinating-Methodological Centre for gender-based and domestic violence	<p>Gender Equality 2015, Statistical Office of the Slovak Republic website, available at: http://www.gender.gov.sk/?page_id=485;</p> <p>The Coordinating-Methodical Centre for gender-based and domestic violence website is available at: http://www.zastavmenasilie.gov.sk/</p>	Ministry of Justice, Statistical Yearbook (courts), General Prosecutors Office, Statistical Yearbook	The Ministry of Justice of the Slovak Republic, Information, Statistics, available at: https://www.justice.gov.sk/Stranky/Informacie/Statistiky.aspx ; General Prosecutors Office of the Slovak Republic, Statistics, available at: https://www.genpro.gov.sk/statistiky-12c1.html	no
SI	Annual report on the work of the Police	http://www.policija.si/eng/index.php/statistics	Statistical Office	http://pxweb.stat.si/pxweb/Database/Demographics/Demographics.asp#13	no

MS	police (9)	link	justice (9)	link	single location?
UK - EW	EW: Home Office, National Statistical Institute (ONS); NI: PSNI Domestic Abuse Statistics; SC: Scottish Government	Office for National Statistics (2016). Domestic abuse in England and Wales – Appendix tables. Available at: https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/domesticabuseinenglandandwalesappendixtables ; PSNI (2016). Domestic Abuse Statistics – financial year trends summary tables (Table 5.5). Available at: https://www.psni.police.uk/inside-psni/Statistics/domestic-abuse-statistics/ ; Scottish Government (2016). Domestic Abuse recorded by the police in Scotland, 2015-16. Table 5. Available at: http://www.gov.scot/Publications/2016/10/2442/downloads	EW: Crown Prosecution Service; NI: no; SC: Scottish Government	Crown Prosecution Service (2015). CPS domestic abuse prosecutions by defendant gender 2009-2016. Available at: http://cps.gov.uk/data/violence_against_women/vawg_2015_16_report.html ; Scottish Government (2017). Civil Justice Statistics in Scotland 2016-16 (Table 7). Available at: http://www.gov.scot/Topics/Statistics/Browse/Crime-Justice/Datasets/DatasetsCJS/CJDow16	EW: both police and justice data are compiled by ONS in the tables 'Domestic Abuse in England and Wales - Appendix tables'; SC: both sources compiled by Scottish government

Source: EIGE portal 'National sources of survey and administrative data on gender-based violence', http://eige.europa.eu/gender-statistics/dgs/indicator/ta_gbv_statcap_gbv_nat_statcap and identified national sources.

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